S. Hrg. 98-216

INDIAN HOUSING ACT OF 1983

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 856

TO PROVIDE FOR AN INDIAN HOUSING PROGRAM FOR CONSTRUCTION AND FINANCING OF HOUSING FOR INDIANS, AND FOR OTHER PURPOSES

APRIL 19, 1983

WASHINGTON, D.C.

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CONTENTS

	Page
S. 856	8

WITNESSES

Abrams, Phil, General Deputy Assistant Secretary for Housing, HUD	88
Prepared statement	89
Allison, Sandra L., Single Family Housing and Mortgage Activities, HUD	88
Andrade, Ron, executive director, National Congress of American Indians	43
Arnaudo, Pat, acting director, Office of Indian Housing, HUD	88
Chopper, Johnnye, chairman, National American Indian Housing Council	46
Combs, Raymond E., Special Assistant to the Secretary for Indian and Alaska Native Programs, HUD	88
Fritz, John W., Deputy Assistant Secretary, Indian Affairs, Department of the Interior	81
Froman, Ronald, treasurer, National American Indian Housing Council	55
Prepared statement	58
Leask, Janie, president, Alaska Federation of Natives, Inc	67
Prepared statement	75
Martin, Phillip, chief, Mississippi Band of Choctaw Indians and President of the National Tribal Chairman's Association	41
Prepared statement	42
Mitchell, Don, general counsel, Alaska Federation of Natives, Inc	67
Murkowski, Frank, a U.S. Senator from the State of Alaska, read by Mark Woelber, staff attorney	66
Peake, Ronald, Chief, Indian Housing Assistant Office, Department of the Interior	81
Pearson, Bill, Director, Office of Environmental Health, Indian Health Service, HHS	82
Pena, Gilbert, vice chairman, All Indian Pueblo Council	60
Prepared statement	61
Perez, David, executive director, Northern Pueblos Housing Authority	60
Rhoades, Dr. Everett, Director, Indian Health Service, HHS	82
Prepared statement	82
Stennis, John C., a U.S. Senator from the State of Mississippi	39
Prepared statement	39
Stevens, Ted, a U.S. Senator from the State of Alaska, prepared statement	40
Swimmer, Ross O., principal chief of the Cherokee Nation of Oklahoma, prepared statement	49
Wadena, Darrell, president, the Minnesota Chippewa Tribe	63
Young III, Nathan, vice chairman of the National American Indian Housing Council	46
Prepared statement	46, 48

MATERIAL RECEIVED FOR THE RECORD

Letter from Nathan H. Young III, vice chairman, National American Indian Housing; to Phil Abrams, Assistant Secretary, HUD	52
Position paper submitted by John Hope, president, Central Council of the Tlingit and Haida Indian Tribes of Alaska	79
Letter from David A. Stockman, Director, OMB; to Senator Stevens	80

APPENDIX

Additional Material Received for the Record

	Page
Letter from James F. Wagenlander, attorney, with enclosed statements of nine Dakota and Northern Plains Indian housing authorities; to Senator Andrews	99
Prepared testimony of Peterson Zah, chairman, Navajo Tribal Council	104
Prepared testimony of the Oglala Sioux Tribe, presented by Joe American Horse, president	119
Letter from Clarence W. Skye, executive director, United Sioux Tribes of South Dakota; to Senator Andrews	127

THE INDIAN HOUSING ACT OF 1983

APRIL 19, 1983

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 2:45 p.m., in room 253, Russell Senate Office Building, Senator Mark Andrews (chairman) presiding.

Present: Senators Andrews and Melcher.

Staff present: Paul Alexander, staff director; Peter S. Taylor, general counsel; Michael Mahsetky, staff attorney; and Lefty Wilson, clerk.

Senator ANDREWS. The purpose of this afternoon's hearing is to hear from administration and tribal witnesses on S. 856, the Indian Housing Act of 1983. The hearing will address the complex and urgent problem of Indian housing.

S. 856 is almost identical to S. 2847 introduced in the last Congress by Senator Cochran, and reintroduced by him on March 18 of this year. The House Interior and Insular Affairs Committee held hearings last week and again this morning on companion bill H.R. 1928. The House bill was also reintroduced earlier this year by Congressman Udall.

Before we begin today's hearing, I would like to make a brief comment about the development of Indian housing programs.

Since the 1960's the primary source of housing assistance to Indian tribes has been through the HUD Indian housing program. Although progress has been made to improve the quality of housing available to Indian families living on reservations and trust lands, recent Bureau of Indian Affairs figures indicate that 36 percent of all Indian families are now living in substandard housing. Over 43 percent of Indian housing is in substandard condition as compared to only 12 percent for the rest of the Nation. Such statistics vividly underscore the need for a new approach to address this problem.

Despite HUD's efforts to improve the quality of housing for Indian people, the Indian housing program has been the subject of much criticism from the current administration. In 1981 the administration proposed the elimination of the HUD Indian housing program because of its high cost, administrative complexity, and poor management. In line with this position it recommended the elimination of funding for Indian housing in fiscal year 1982. Again in fiscal year 1983 the same recommendation was repeated.

In the fall of 1981 the administration, through the Office of Management and Budget, established an interagency task force on Indian

housing. Its mission was to review the existing Indian housing programs and to make recommendations for an improved method of housing delivery to Indian tribes. This task force recommended 11 criteria which any new Indian housing program should contain. S. 856 includes the majority of those elements.

On February 23 of this year the administration's proposal for a new Indian housing initiative was introduced as a part of the Housing and Community Development Act of 1983, S. 644. Although hearings were held on the Indian housing portion of this legislation on March 23, the Indian housing section was not marked up by the Banking, Housing, and Urban Affairs Committee last week.

The Banking Committee has indicated that further consultation with tribes is necessary and that the Indian housing component of the bill will be offered as an amendment when it reaches the floor of the Senate later this spring.

We hope that the witnesses of the administration can enlighten us with the specifics of their plans for a new Indian housing initiative, as well as comment on the programs outlined in S. 856. It is this committee's objective to examine and support the most adequate and workable program which can address the critical needs of Indian housing.

Title I of S. 856 will provide a stronger statutory basis to the current housing improvement program at the BIA. This is a program which focuses on the most needy Indian families and individuals.

Title II would establish a revolving finance fund to assist Indian families who are unable to finance the full cost to their homes. Title III provides for Federal loan guarantees to those Indian families who can support a conventional home mortgage but have not been able to obtain financing from the private sector because of the thrust or restricted status of their lands.

There are some new and innovative approaches in S. 856 which dramatically change the current Indian housing delivery system. For example, the cost of constructing a specific number of homes in a given fiscal year will be appropriated in the actual year of construction. This will enable the Government to avoid the long-term financial commitment that makes the current HUD program so expensive.

The revolving finance fund concept in title II will decrease the annual appropriations for Indian housing in that the families participating in the program will make residual payments into the fund. which will in turn be made available to other tribes for housing construction.

There are other interesting and cost saving measures included in this bill that make it attractive to the Federal Government as well as to the tribes.

We look forward to hearing the views of the scheduled witnesses on this important area of concern.

At this time, I will place a copy of S. 856 in the hearing record:

[The bill follows. Testimony resumes on p. 39.]

II

98TH CONGRESS
1ST SESSION

S. 856

To provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18 (legislative day, MARCH 14), 1983

Mr. COCHRAN (for himself, Mr. ANDREWS, Mr. COHEN, Mr. NICKLES, Mr. STEVENS, Mr. STENNIS, and Mr. MURKOWSKI) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

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A BILL

To provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Housing Act of 1983".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds, based upon the Federal Government's historical and special legal relationship with, and resulting responsibility to, American Indian people that—

(1) the goal of decent, safe, and sanitary housing has not been realized for many Indian families and elderly residing on Indian reservations and in Indian communities;

(2) nearly 40 per centum of all Indian housing is in substandard condition as compared with a national figure of 12 per centum;

(3) this situation is of grave concern; and

(4) special efforts are needed to mobilize public and private resources for the realization of this goal.

(b) It is declared to be the policy of the United States to provide grants, financing, and loan guarantees to assist Indians in obtaining decent, safe, and sanitary housing.

DEFINITIONS

SEC. 3. For the purpose of this Act, the term—

(1) "adjusted family income" means gross family income less $1,000 for each member of the household, plus a further deduction of $3,400 or the amount of itemized deductions from the family's current Federal income tax return, whichever is higher;

(2) "amortization payment" means that payment which would be the equivalent of the level monthly amount needed to amortize the capital cost of a house over the term of a housing assistance contract for twenty-five years at the Federal Housing Administra-

tion mortgage rate in effect on the date of the execution of a project agreement;

(3) "family" means one or more persons maintaining a household. The tribal housing agency shall determine which adult members of a family will be required to execute a housing assistance contract;

(4) "housing assistance contract" means the executed agreement between the tribal housing agency and an eligible family which specifies the terms, conditions, rights, and responsibilities of the parties;

(5) "Indian" means a person who is a member of an Indian tribe or who is an Indian as defined in section 19 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 479);

(6) "mortgage" means a mortgage, deed of trust, or any other instrument establishing a lien on real property;

(7) "project" means the entire undertaking to provide housing under a project agreement, including the minimum number of housing units to be developed or rehabilitated with funds allocated under such agreement;

(8) "Secretary" means the Secretary of the Interior; and

(9) "standard housing" means a dwelling in a condition which is decent, safe, and sanitary so that it at least meets the following minimums—

(i) general construction conforms to applicable standards for the region;

(ii) the heating system has the capacity to maintain a minimum temperature of sixty-five degrees Fahrenheit in the dwelling during the coldest weather in the region. It must be safe to operate and maintain and deliver a uniform distribution of heat. Applicable tribal heating codes are to be followed or, if there are no applicable tribal codes, county, State, or national codes shall be used as a guide;

(iii) the plumbing system includes a properly installed system of piping. Fixtures consist of a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower. The water supply, plumbing, and sewage disposal systems meet applicable tribal codes, or if there are no applicable tribal codes, the minimum standards of the Indian Health Service, county, or State, whichever is applicable;

(iv) the electrical system includes wiring and equipment properly installed to safely supply elec-

trical energy for adequate lighting and for operation of appliances and meets applicable tribal codes. If there are no applicable tribal codes, county, State, or national codes shall be used as a guide; and

(v) family size per dwelling is not less than—

(I) five hundred and seventy square feet for a family of up to four members;

(II) eight hundred and fifty square feet for a family of five to seven members; and

(III) one thousand and twenty square feet for a family of eight or more members;

except that the Secretary, upon the request of a tribe or tribal housing agency, may, in appropriate circumstances, waive the minimum size standards established by this subparagraph;

(10) "tribal housing agency" means that entity or administrative unit of the tribal government which has been designated or established by the tribe to administer housing programs under this Act;

(11) "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act (86 Stat. 688) which is recog-

nized as eligible for the special programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

(12) "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian or Indian tribe subject to a restriction against alienation imposed by the United States.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

BASIC AUTHORITY

SEC. 101. (a) There is hereby established an Indian housing improvement program for the purpose of making grants or providing assistance to preserve existing housing, make repairs, and construct or acquire standard housing for Indians.

(b) The Secretary is authorized, upon application of an Indian tribe or individual, to make grants or provide assistance to assist Indian families who are not eligible for housing assistance under titles II and III of this Act because of low income or extremely isolated circumstances.

(c) The Secretary shall assure that grants or assistance provided under this title shall be consistent with plans and priorities established by tribes and shall, upon the request of the appropriate tribe or tribal housing agency, make such

grants or assistance available through agreements with the tribe or tribal housing agency. In the absence of such an agreement, the Secretary may—

(1) make, with appropriate safeguards, direct grants to individual Indians;

(2) contract with private construction firms pursuant to standard Federal contracting procedures, except that the Act of April 30, 1908 (35 Stat. 71; 25 U.S.C. 47), as amended, shall apply unless the concerned tribe requests, through formal action, that the applicability of the Act be waived on a specific procurement action; or

(3) have repairs or new construction performed directly by the Bureau of Indian Affairs.

(d) With respect to assistance provided under agreements entered into pursuant to subsection (c) of this section, a tribe or tribal housing agency, in its discretion, may require an assisted family to make a monthly payment not to exceed the administrative charge established for such tribe or tribal housing agency pursuant to section 210 of this Act or, if no such amount has been approved, an amount satisfactory to the Secretary. Receipts from such payments shall be used solely for housing-related activities of such tribe.

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ELIGIBLE ACTIVITIES

SEC. 102. (a) Grants or assistance may be provided under this title to—

(1) finance minor repairs and additions to existing substandard housing to improve safety and sanitary conditions until such time as standard housing assistance can be made available to such family;

(2) finance major repair, renovations, or enlargement of existing dwellings that are structurally sound, but deteriorated, and which can be economically placed in standard condition; and

(3) finance the construction or acquisition of new standard housing where severe need is demonstrated and it is established that there is no reasonable prospect that standard housing can be financed from other sources.

(b) Appropriate insurance shall be required on housing constructed, acquired, or improved under subsection (a) (2) or (3) of this section, unless waived by the Secretary.

RESERVATION OF INTEREST

SEC. 103. (a) Where a house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title is located on trust land, the Secretary shall not approve the sale or lease of individual trust land or lease of tribal trust land, as

the case may be, unless the provisions of section 104 of this title have been met.

(b) Where a house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title is located on fee land, the Secretary shall insure that a lien upon such land is recorded under appropriate State law, noting the encumbrance imposed by section 104 of this title.

SALE OF PROPERTY

SEC. 104. Any house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title may be sold, except that the sale price shall not be less than the value of the assistance provided pursuant to section 102 reduced 5 per centum per year for twenty years. The amount of the minimum sale price shall be reimbursed to the United States and shall be credited to the appropriation authorized by section 105 of this title. Any amount in excess of such minimum sale price shall be the property of the assisted Indian family. Where such house is located on tribal trust land, the tribe shall have the right of first refusal on the sale of such house.

AUTHORIZATION

SEC. 105. There are authorized to be appropriated for the purpose of this title not to exceed $30,000,000 in fiscal year 1984, not to exceed $40,000,000 in fiscal years 1985 and 1986, and not to exceed $50,000,000 in fiscal year 1987.

TITLE II—INDIAN HOUSING FINANCE FUND

ESTABLISHMENT

SEC. 201. There is established an Indian housing finance fund (hereinafter referred to as the "fund") for the purpose of providing financing to Indian tribes for the construction, acquisition, or rehabilitation of standard housing for Indian families who are unable to obtain financing from other sources on reasonable terms and conditions and who are not eligible for assistance under title III of this Act, but who can meet the minimum monthly payment required by this title.

TRIBAL HOUSING PLAN

SEC. 202. As a prerequisite for eligibility for financing from the fund, a tribe must prepare and submit to the Secretary for approval a tribal housing plan. Such plan, at a minimum, shall include an inventory of existing housing; an assessment of housing needs; a proposed tribal administrative structure to implement a housing program; an assessment of the tribe's capacity to administer such program; and a projection of how the tribe intends to meet its housing needs over a multiyear period.

APPLICATIONS

SEC. 203. (a) Applications for financing from the fund shall be submitted to the Secretary and shall specify the number of housing units to be developed and methods of production and development; shall include preliminary drawings

and specifications; and shall otherwise be consistent with the approved tribal housing plan.

(b) Applications for funding shall be evaluated and approved, subject to the availability of appropriations, based upon, but not limited to, the following criteria—

(1) a priority for those tribes which have not received financing from the fund in prior fiscal years;

(2) a determination of the administrative, management, and accounting capability of the tribe to implement the proposed housing project;

(3) a determination of the percentage of tribal housing units in a substandard condition;

(4) the housing needs of such tribes as contained in the biennial housing inventory required by section 405 of this Act; and

(5) a determination by the Secretary that there is a reasonable prospect of repayment.

(c) The application shall include a tribal ordinance or other evidence of action of the governing body of the tribe designating or establishing a tribal housing agency (hereinafter referred to as the "agency") which shall be responsible for implementing the project agreement.

(d) Nothing herein shall preclude the submission and approval of multitribal applications and the Secretary shall en-

23-603 O - 83 - 2

courage, but shall not require, multitribal applications to achieve economy of scale in housing projects.

PROJECT AGREEMENT

SEC. 204. Upon approval of an application, the Secretary and the agency shall enter into a project agreement which shall specify the amount of funds to be made available, the minimum number of housing units to be developed with such funds, the production method, and such other terms and conditions as may be reasonable and consistent with the provisions of this title.

ADMINISTRATIVE AND FUNDING PROVISIONS

SEC. 205. (a) The project agreement shall set forth the administrative and judicial authorities, forums, procedures, remedies, and sanctions that the tribe or tribal housing agency will employ to insure collections of monthly payments and the deposit of residual receipts as required by section 211 of this title. It shall also contain a provision that the tribe specifically agree that—

(1) it shall require any Indian family executing a housing assistance contract to authorize the Secretary, on his own motion or at the request of the agency, to attach unobligated trust funds of the adult members of such family for a failure to meet the obligations incurred in such contract; and

(2) its unobligated tribal trust funds may be subject to attachment for failure to meet the requirements of section 211 only as provided in subsection (b) of this section.

Notwithstanding any other provision of law, Indian trust funds shall be subject to attachment as provided in this section. Funds attached under this section shall be paid into the fund as residual receipts.

(b) Tribal trust funds shall be subject to attachment only when (1) its tribal housing agency has failed to meet the financial obligations imposed under section 211 of this title; (2) the Secretary has reasonably exhausted all other available remedies to satisfy the default; and (3) the Secretary has made a specific finding that the tribe has not acted in good faith in carrying out the undertaking as required in subsection (a) of this section.

(c) Prior to the attachment of any trust funds as provided in this section, the Secretary shall provide the tribe or Indian family, as the case may be, with written notice of his intent. Within sixty days of such notice, the tribe or Indian family shall be entitled to (1) pay the amount in default; (2) negotiate a repayment schedule satisfactory to the Secretary; or (3) institute such administrative appeals or judicial actions as may otherwise be authorized.

(d) The Secretary may not refuse assistance under this title on the basis that a tribe or Indian family has no trust funds to their credit.

DISBURSEMENTS

SEC. 206. (a) An initial disbursement may be made from the fund, under a project agreement, to cover costs incurred by the agency for preliminary planning and administration. The initial disbursement shall not exceed $50,000 or 3 per centum of the total funding of the project, whichever is greater. Further disbursements under the project agreement shall be made by the Secretary to the contractor or developer based upon the percentage of completion of the project as specified in the project agreement and as determined pursuant to the plans and specifications approved under section 207 of this title. Percentage of completion of a project shall be certified jointly by the agency and a person designated by the Secretary who shall have no financial or tribal interest in the project.

(b) A jointly conducted final inspection and certification of completion of the project shall be made by the designee of the Secretary, the agency, the contractor, or developer, and, where appropriate, the Indian Health Service.

(c) All moneys disbursed from the fund shall be maintained by the agency in an account separate from all other

funds of the tribe or the agency and shall be accounted for as provided in the project agreement.

(d) All housing units provided for in the project agreement shall be placed under construction or acquisition contracts within one year of the execution of the project agreement, except that, where the Secretary determines that the inability of the agency to place units under contract is due to circumstances beyond the control of the agency, he may extend the period for an additional ninety days. Funds for units not placed under contract within such time shall be returned to the fund or such amount shall be deducted from approved allocations from the fund for such tribe in subsequent years.

SUBMISSION OF FINAL PLANS AND SPECIFICATIONS

SEC. 207. Within one hundred and twenty days of the initial disbursement of funds as provided in section 206, the agency shall submit to the Secretary the final plans and specifications for housing units to be developed under the project agreement. Such plans and specifications shall include a phased construction schedule necessary to facilitate periodic disbursements from the fund as provided in section 206. The Secretary shall approve such plans and specifications if they meet the standard housing criteria as defined in section 3(9) of this Act and are otherwise consistent with the project agreement. The Secretary shall encourage the development

of plans and specifications that reasonably promote the conservation and efficient use of energy in housing constructed under the project agreement.

SITE ACQUISITION

SEC. 208. (a) Prior to the construction or acquisition of any housing units under a project agreement, the agency shall secure either a fee title to, or a lease of, such lands as may be necessary for the construction or acquisition of such units.

(b) Where the housing site is upon tribal or individual trust land, the agency shall secure, without cost to itself, a twenty-five year lease with option to renew for not to exceed an additional twenty-five years. Where the housing site is on fee land, the agency shall require, without cost to itself, the transfer of the fee title to such lands.

(c) Where the Secretary determines that no suitable lands are available to the tribe for construction of housing, he may authorize the use of project funds to purchase land for the tribe. Such land purchase cost shall be a part of the total project cost.

HOUSING ASSISTANCE CONTRACT PROVISIONS

SEC. 209. (a) An eligible Indian family shall make application for housing assistance to the agency. Upon approval of the application by the agency, the family and the agency shall enter into a housing assistance contract (hereinafter re-

ferred to as the "contract") in which the agency shall agree to construct or acquire a standard housing unit or rehabilitate an existing house to standard condition for such family upon lands to be provided by the family or the tribe.

(b) The family shall agree in such contract that it shall—

(1) at no cost to the agency, lease or transfer its trust or fee lands on which such housing is to be built, if required by the agency;

(2) make monthly payments to the agency in the amount of 20 per centum of the adjusted family income, except that (A) the adjusted family income shall be reviewed at least biennially during the twenty-five year period of the contract and the monthly payment shall be adjusted upward or downward as indicated, except that upward adjustments in any one year may not exceed 50 per centum of the prior payment, and (B) such monthly payment shall be not more than the amortization payment and not less than the minimum payment established in section 210 of this title;

(3) accept responsibility for all utilities and maintenance; and

(4) subject the trust funds of its adult members to attachment as provided in section 205 of this title.

(c) Where the housing site is located on the trust or fee lands of the family which has fully met its obligations under the housing assistance contract, at the end of twenty-five years, the land will revert to its former status and the agency will transfer full ownership of the house to the family. Where the housing site is located on tribal lands and the family has fully met its obligations under the housing assistance contract, the lands will revert to their former status and the agency will transfer ownership of the house to the family, except that the tribe may not deny the family the continued use of the land site unless the Secretary, the tribe, and the family negotiate for the tribal purchase of the house for an amount not less than the fair market value of such house.

MINIMUM PAYMENT

SEC. 210. The project agreement shall provide for a minimum monthly payment to be made by families receiving assistance under this title. Such minimum monthly payment shall be composed of—

(1) an administrative charge which shall be in an amount deemed sufficient by the Secretary to enable the agency to perform the administrative functions required by this Act;

(2) a premium for insurance; and

(3) an amount deemed reasonable by the Secretary as a contingency reserve for maintenance. Such

amounts shall be deposited by the agency into an interest-bearing account as a reserve for maintenance which may be used, principal and interest, as provided in section 214 of this title.

The minimum payment shall be reviewed annually and may, subject to the approval of the Secretary, be adjusted upward or downward as warranted.

RESIDUAL RECEIPTS

SEC. 211. (a) The project agreement shall require the agency to establish an account for residual receipts. Residual receipts shall be the amount of the monthly payments collected by the agency less the minimum payment to be retained by the agency as provided in section 209.

(b) Residual receipts shall be deposited by the agency in the fund annually on a fiscal year basis. The agency shall, on a quarterly basis, certify to the Secretary the collection and deposit of the required monthly payments in the agency's residual receipt account. Initial residual receipts due the fund are those that are the result of monthly payments established by the agency and which have been certified by an independent audit or agreed to by the Secretary in the project agreement. Thereafter, residual receipts due to the fund shall be in accordance with amounts established by an annual independent audit of the adjusted family incomes of the participating families.

(c) Residual receipts due the fund from an agency shall not fall below 90 per centum of the amount due based upon an amount established by the annual independent audit as required by subsection (b). Within ten days after a determination of a default by an agency in its annual payment of residual receipts to the fund or a failure to make a quarterly certification of collection and deposit of receipts in its residual receipts account, the Secretary shall notify the tribe and the agency in writing of such determination. The tribe or the agency shall have thirty days within which to satisfy the default. Upon a failure of the tribe or agency to do so, the Secretary may—

(1) declare such tribe to be ineligible for further housing assistance from the fund;

(2) take any other action to satisfy the default as may be otherwise authorized by law; or

(3) attach tribal or appropriate individual trust funds as provided and authorized in section 205 of this title, except that the Secretary may exercise this authority only after all other reasonable action has been exhausted.

MONITORING AND INSPECTION

SEC. 212. (a) The agency shall be responsible for the implementation of monitoring and construction inspection procedures necessary to assure the Secretary of satisfactory

quality control and fund utilization, including compliance with the minimum housing standards and the approved drawings and specifications of a project. When the Secretary determines that the monitoring and inspection procedures are not adequate, he shall initiate action to assure implementation of such procedures by the agency as a requirement for continuation of the project.

(b) The technical staff of the Indian Health Service within the Department of Health and Human Services shall, in the course of fulfilling its existing responsibilities in providing sanitation facilities to Indian housing, be responsible for the surveillance of the construction, inspection, and monitoring procedures of the agency. The Indian Health Service shall provide recommendations to the agency and the Secretary as to the adequacy of the construction inspection procedures of the agency to assure compliance with the minimum housing standards and the approved plans and specifications.

BONDING REQUIREMENTS

SEC. 213. (a) Tribal and agency officials and employees who are responsible for the receipt and disbursement of funds under this title shall be bonded in amounts satisfactory to the Secretary. No such disbursement shall be made until a bond satisfactory to the Secretary is obtained.

(b) The agency shall require performance bonds from its contractors except for those projects where settlement is on the basis of turnkey constuction.

(c) The agency shall also require irrevocable letters of credit, mechanics' and workmen's lien bonds and warranty maintenance bonds or cash equivalents from its contractors in amounts satisfactory to the Secretary.

MAINTENANCE AND UTILITIES

SEC. 214. Maintenance and cost of utilities for the house shall be the responsibility of the participating family. Upon the failure of a family to perform adequate maintenance to the extent necessary to prevent health hazards or preserve the capital value of the unit, the agency shall use the reserve for maintenance established by section 210 of this title to correct any deficiencies. At the end of the contract period, the amount remaining in the maintenance reserve account to the credit of the family, excluding any accrued interest, shall become the property of the family.

AWARE OF CONTRACTS

SEC. 215. All contracts under this title shall be awarded in accordance with procedures satisfactory to the Secretary and shall result in the judicious use of Federal funds. Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) shall apply to all contracts, subcontracts, and employment opportunities supported by fund-

ing under this title, except that a tribe may, by formal action of its governing body, waive the applicability of section 7(b) in specific cases.

SALE OF HOUSING

SEC. 216. A family may, subject to the approval of the Secretary and the agency, sell or purchase a house constructed, acquired, or rehabilitated with funds under a project agreement. The minimum sale or purchase price of the house shall be the amount of the principal remaining on the amortization schedule for such house, except that, where a family has a deficit in its reserve for maintenance account, such minimum sale or purchase price shall be increased by that amount. The minimum sale or purchase price shall be reimbursed to the fund and any amount in excess of the minimum sale price shall be the property of the family.

ASSIGNMENTS

SEC. 217. (a) The contractual interest of a family in housing constructed, acquired, or rehabilitated with moneys provided from the fund may be inherited or assigned if the heirs, devisees, or assignees agree to assume the responsibilities and obligations under the original contract, and if any assignee of such interest is otherwise eligible for assistance under this title.

(b) Abandoned houses shall revert to the agency and shall be available to another eligible family under a new housing assistance contract.

DOWNPAYMENT ASSISTANCE

SEC. 218. Tribal housing agencies may use funds made available under a project agreement, if the agreement so provides, to assist Indian families in making a downpayment, including closing costs, on standard housing to be financed through other sources of credit. The family shall be obligated to repay such amount, with or without interest, over a period of not to exceed ten years. Exclusive of closing costs, assistance provided under this section shall not be in excess of 10 per centum of the purchase price of the house.

CREDIT ELSEWHERE

SEC. 219. If an agency, in establishing the adjusted family income of an applicant family, determines that the income of such family is sufficient to support the payment of a reasonable economic rent, the agency shall require such family to provide evidence that at least two lending institutions in the area making home mortgage loans have rejected loan applications submitted by such family before the family is eligible for housing assistance under this title.

RENTAL HOUSING

SEC. 220. Funds made available under this title may, as provided in a project agreement, be used to construct rental housing, except that—

(1) the tribe shall require monthly rental payments from eligible Indian families as determined by section 209 except that the maximum monthly payment shall be an amount agreed upon by the Secretary and the agency;

(2) a minimum monthly rental payment shall be established as provided in section 210 and the tribe shall be responsible for the payment of residual receipts as provided in section 211;

(3) the tribe shall be responsible for the payment of utilities and maintenance costs; and

(4) all other appropriate provisions of this title shall be applicable to such rental housing projects.

AUTHORIZATION

SEC. 221. There are authorized to be appropriated for the purpose of carrying out the provisions of this title $100,000,000 in fiscal year 1984; $200,000,000 in fiscal year 1985; and for fiscal years 1986 and 1987, such sums as may be necessary which, when added to the total residual receipts and other deposits paid into the fund during the pre-

ceding fiscal year, will restore the balance in the fund to $250,000,000 at the beginning of each fiscal year.

TITLE III—INDIAN HOUSING LOAN GUARANTEE FUND

ESTABLISHMENT OF FUND

SEC. 301. In order to provide access to sources of private financing for Indian families who otherwise would not be eligible for housing credit because of Federal laws restricting mortgage or other encumbrance of trust land, there is established an Indian housing loan guarantee fund (hereinafter referred to as the "guarantee fund") which shall be available as provided in section 311 of this title.

GUARANTEE AUTHORITY

SEC. 302. The Secretary is authorized to guarantee not to exceed 100 per centum of the unpaid principal and interest due on any loan made to an Indian for the acquisition or construction of a standard house on trust land. Such loans may be secured by any collateral authorized by law.

INTEREST RATE

SEC. 303. Loans guaranteed pursuant to this title shall bear interest (exclusive of premium charges for guarantee and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but which is not more than that being charged in the area by lenders for home mortgage loans without a

guarantee or insurance by a Federal agency or instrumentality.

PREMIUM CHARGES

SEC. 304. The Secretary shall fix such premium charges for the guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and shall deposit receipts for such charges in the guarantee fund.

APPLICATION

SEC. 305. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary shall issue a certificate as evidence of the guarantee. Such certificate shall be issued only when the Secretary determines there is a reasonable prospect of repayment.

SALE OR ASSIGNMENT OF LOANS

SEC. 306. Any loan guaranteed hereunder, including the security given therefore, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

LIMITATIONS ON LOANS

SEC. 307. Any loans guaranteed hereunder shall be restricted to those made by a financial institution subject to examination and supervision by an agency of the United

23-603 O - 83 - 3

States, a State, or the District of Columbia and shall meet the following requirements:

(1) the maturity of any loan guaranteed hereunder shall not exceed thirty-three years;

(2) loans guaranteed hereunder may be made by any lender satisfactory to the Secretary except loans insured or guaranteed by an agency or instrumentality of the Federal Government or made by an organization of Indians from funds borrowed from the United States shall not be eligible for guarantee hereunder;

(3) the liability under the guarantee shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation pursuant to the provisions of the loan agreement; and

(4) any loan made by any national bank or Federal savings and loan association or savings bank, or by any insurance company authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (A) ratio of amount of loan to value of property; (B) requirement of mortgage or other security; (C) maturity of loans; (D) priority of lien; or (E) percentage of assets which may be invested in real estate loans.

REGULATORY AUTHORITY

SEC. 308. Whenever the Secretary finds that any lender or holder of a guarantee certificate fails to maintain adequate accounting records or to demonstrate proper ability to service adequately loans guaranteed or to exercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or the United States, the Secretary may refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed hereunder. The Secretary shall not refuse to pay a valid guarantee on loans previously made in good faith.

DEFAULT PROCEEDINGS

SEC. 309. (a) In the event of a default on a loan guaranteed hereunder, the lender holding the guarantee certificate must notify the Secretary of the default in writing and may thereupon proceed under either of the following methods for obtaining payment under the guarantee—

(1) the lender may initiate foreclosure proceedings in a court of competent jurisdiction after providing prior written notice of such action to the Secretary and upon a final order authorizing foreclosure by such a court and upon submission to the Secretary of a claim for payment under the guarantee, the Secretary shall

pay to such holder the full pro rata portion of the amount guaranteed plus reasonable fees and expenses as approved by the Secretary and the Secretary shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security; or

(2) without seeking a judicial foreclosure or in the event that a foreclosure proceeding initiated by or on behalf of the lender as authorized under paragraph (1) above continues for a period in excess of one year, the lender may submit a claim for payment under the guarantee, except that the Secretary shall only pay to such holder for a loss on any one loan an amount equal to 95 per centum of the pro rata portion of the amount guaranteed, and the Secretary shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security.

(b) Upon receipt from the lender of a notice of default, the Secretary may, in his sole discretion, accept assignment of such loan if such action is determined by the Secretary to be in the best interest of the United States and shall thereupon pay to the holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security.

(c) Before any reimbursement is made under subsection (a), all reasonable collection efforts shall have been exhausted by the lender. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection actions as may be warranted.

CONCLUSIVENESS

SEC. 310. Any evidence of guarantee issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this title and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing by regulations in force on the date of such issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

USE OF GUARANTEE FUND

SEC. 311. (a) There is hereby established an Indian housing guarantee fund which shall be available to the Secre-

tary as a revolving fund without fiscal year limitation for carrying out the provisions of this title. The guaranteed loan program under this title shall be operated separately from the Indian housing finance fund established under title II of this Act and no funds designated for one program may be transferred to the other program. There are authorized to be appropriated $2,500,000 in fiscal year 1984; $3,000,000 in fiscal year 1985, and $3,500,000 in fiscal years 1986 and 1987.

(b) The Secretary may use the guarantee fund for the purpose of fulfilling the obligations with respect to loans guaranteed under this title, but the aggregate outstanding principal amount guaranteed by the Secretary shall be limited to $400,000,000 or such lesser amount as may be provided in appropriations Acts.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the guarantee fund. All liabilities and obligations of such assets shall be liabilities and obligations of the guarantee fund. The Secretary is authorized to make agreements with respect to servicing loans acquired or guaranteed under this title and to purchase such guaranteed loans on such terms and conditions as the Secretary may prescribe.

(d) The Secretary may utilize the guarantee fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this title or held by the Secretary, to acquire such security property at foreclosure sales or otherwise, and to pay administrative expenses.

TITLE IV—MISCELLANEOUS PROVISIONS

OFFICE OF INDIAN HOUSING PROGRAMS

SEC. 401. (a) The Secretary shall establish in the Bureau of Indian Affairs an Office of Indian Housing Programs which shall be vested with the primary responsibility for administering the programs established by this Act. The Office of Indian Housing Programs shall be under the supervision of a Director of Indian Housing Programs who shall be under the immediate supervision of the Assistant Secretary of the Interior for Indian Affairs.

(b) The authority to approve applications as provided in section 203, execute project agreements as provided in section 204, approve loan guarantees under title III, and to allocate and assign personnel of the Office of Indian Housing Programs within the administrative structure of the Bureau of Indian Affairs shall not be delegated below the Office of the Director of Indian Housing Programs.

(c) Funds appropriated under authorization of this Act shall include employee costs and other administrative expenses of the Office of Indian Housing Programs. Annual appropriation requests for the Office of Indian Housing shall specify the number of employees by location, employee costs, and related administrative expenses. Funds made available for such purposes shall not be available for any other purposes.

TECHNICAL ASSISTANCE

SEC. 402. (a) The Secretary is authorized to provide technical assistance to Indian tribes to assist them in developing tribal housing plans, preparing and submitting applications for financing, and implementing housing programs funded under this Act.

(b) The Secretary shall provide for the establishment of a training program to develop an understanding by the participating families of the respective roles and responsibilities of the tribal housing agency, the Federal Government, and the participants under titles I and II. Such program shall include basic home maintenance training for participating families.

(c) Not to exceed 1 per centum of the funds appropriated under the authority of titles I and II may be used to provide the technical assistance and training authorized by this section.

INDIAN HEALTH SERVICE

SEC. 403. The Indian Health Service in the Department of Health and Human Services shall be responsible for the provision of water and sanitation facilities for houses constructed, acquired, or rehabilitated with assistance provided under this Act. The Secretary shall coordinate with the Secretary of Health and Human Services with respect to such responsibilities and activities and shall ensure that planning and budgeting for necessary roads and sanitation facilities shall be done in conjunction with planning and budgeting for new housing to be constructed with funds appropriated pursuant to this Act.

SITE IMPROVEMENTS

SEC. 404. (a) Funds appropriated under titles I and II may be used to provide site improvements, streets and driveways within multiunit housing projects. Such streets shall be built to the usual standards of the Bureau of Indian Affairs and, where appropriate, shall thereafter be maintained by the Bureau of Indian Affairs under existing road programs and authorities.

(b) All-weather access roads to multiunit projects constructed under this Act shall continue to be provided by the Secretary through existing road programs and authorizations.

HOUSING INVENTORY

SEC. 405. The Secretary shall conduct a biennial housing inventory of current Indian housing needs and conditions to be used as a basis for determining housing assistance needs for the purposes of sections 202 and 203 of this Act. The Secretary shall submit a copy of such inventory to the Congress.

RULEMAKING

SEC. 406. The Secretary shall promulgate such rules and regulations as are necessary to carry out the provisions of this Act.

RELATION TO OTHER PROGRAMS

SEC. 407. Housing assistance provided under this Act shall not exclude Indians from being eligible for other federally assisted housing programs.

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Senator ANDREWS. This afternoon, we are delighted to see our colleague and good friend, the senior Senator from the State of Mississippi, Hon. John Stennis, out here in the audience.

Senator Stennis, do you have a witness to introduce, or would you like to make a statement?

STATEMENT OF HON. JOHN C. STENNIS, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Senator STENNIS. Mr. Chairman, I would like to make a brief statement.

Senator ANDREWS. We would be most pleased to have you, and we are honored by your appearance, sir.

Senator STENNIS. Thank you, very much. Mr. Chairman, I will read the last paragraph of my statement, which will be by way of introduction of Chief Phillip Martin who is chief of our Choctaw Tribe.

Senator ANDREWS. Let me assure you, Senator, that your entire written statement will be included in the record as though you read every word of it. We are delighted to have it, and we will be guided by it.

Senator STENNIS. We have a large Indian reservation for our Mississippi band of Choctaws, Mr. Chairman, and I personally know a good number of these people and the good work that they are doing. Their chief, Phillip Martin, is a good friend of mine, and it is time to give this part of our society the recognition it deserves and provide a bill which will make it possible to create adequate Indian housing.

I am delighted to see you, Mr. Chairman, as the head of this committee holding these hearings. There are two reasons for that: No. 1, when you get behind things here they move forward; and No. 2, I know your interest in it is really in earnest.

Senator ANDREWS. Senator, the only way we move things forward is with the help of distinguished colleagues such as yourself. We appreciate your support.

Senator STENNIS. I thank you, very much. When you call me I will be there, and I will be with you on the floor when you are handling this measure.

Senator ANDREWS. Let me assure you, Senator, that we will look forward to the remarks of Mr. Martin, and we appreciate your comments in the record on this very important legislation.

Senator STENNIS. Thank you very much.

[The prepared statement follows:]

PREPARED STATEMENT OF HON. JOHN STENNIS, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

Mr. Chairman, I think it is a fine thing that you are doing today, holding this very needed hearing, and I appreciate the opportunity to present this statement in support of S. 856, the Indian Housing Act.

You, Mr. Chairman, certainly know this issue well and you are quite aware, I am sure, of the great need for an improved Indian housing program. You were among those Senators who introduced S. 2847 last year for this very purpose. I was not an original co-sponsor of that legislation, but I realized the importance of improved Indian housing and I was happy to join with you and several other of our colleagues to introduce S. 856 on March 18 of this year.

Today the testimony that is presented will point out many of the unfortunate statistics relating to the current status of Indian housing. You will hear time and

again that over 43 percent of all Indians live in substandard housing, compared to only 12 percent of all Americans living in substandard housing. The report which was prepared by this committee to accompany S. 2847 last year gave some good reasons for this condition. Unemployment is extremely high on most Indian reservations and most Indians living in these pockets of high unemployment cannot afford reasonable housing. Indian reservations are often remote and geographically isolated, causing problems associated with the lack of support facilities such as water, sanitation and roads. Finally, the trust or restricted status of Indian lands makes conventional home financing almost impossible.

Mr. Chairman, my home county is Kemper County, Mississippi. Bordering this county, just to the west, is Neshoba County, where there is a large Indian reservation for the Mississippi Band of Choctaw Indians. I know these people and the good work they do over there. Their chief, Phillip Martin, is a good friend of mine. It is time we give this part of our society the recognition it deserves and provide a bill which will make it possible to create adequate Indian housing.

I urge this subcommittee to act quickly and favorably report S. 856, and then to fight hard for its passage on the Senate Floor. You can count on my support all the way.

Thank you.

Senator ANDREWS. Before proceeding with our witnesses, without objection, I have a statement from Senator Stevens of Alaska which I will place in the record at this time.

[The statement follows:]

PREPARED STATEMENT OF HON. TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

The housing needs of Alaska Natives are among the most critical in the nation. In particular, the situation facing rural Alaska Native villages is especially difficult, given the existing combination of poverty and geographic isolation. I am glad we have this opportunity to take a close look at federal Indian housing programs, and I think that S. 856 spells out a housing program that could work well in my state.

I understand that there is some concern among several Alaska Native groups about the responsibility that the Bureau of Indian Affairs would assume under this bill. As many of you know, I, too, am not always convinced of the BIA's administrative capacities. However, it is clear that the Housing Improvement Program, currently run by the BIA and greatly expanded by the proposed legislation before us, has proven tremendously successful in my state as a method for providing needed assistance in the development of quality housing for Alaska Natives.

In fiscal year 82, the Bureau's Consolidated Housing Inventory counted over 7500 substandard Native homes in Alaska, and almost 5000 units requiring complete replacement. The other salient statistic here is that out of the ten poorest census districts in the nation, several are in Alaska, and are districts that are almost exclusively Alaska Native villages in rural areas. These communities need assistance if they are to meet the basic need for adequate housing—a need further complicated in Alaska by the extremes of climate common to vast regions of the State. An Indian housing program must be adaptable to the many different physical requirements posed by different locations in Alaska and the Lower 48, but at the same time be cost-effective and efficient in satisfying the urgent need for Indian and Alaska Native housing. I am hopeful S. 856 will do the job.

Senator ANDREWS. Since Senator Stennis is here, let me call on panel 3 first. They are Mr. Ron Andrade, executive director of the National Congress of American Indians here in Washington, D.C.; Mr. Phillip Martin, the president of the National Tribal Chairmen's Association; and Nathan Young, the vice chairman of the National American Indian Housing Council, Carson City, Nev. Also with them is Ron Froman, treasurer of the National American Indian Housing Council, Carson City, Nev.

If you would come to the witness table, we would be glad to hear from you. Let us have Mr. Martin go first.

Let me assure you, Mr. Martin, that you may proceed in any way you want.

STATEMENT OF PHILLIP MARTIN, CHIEF, MISSISSIPPI BAND OF CHOCTAW INDIANS AND PRESIDENT, NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Mr. MARTIN. Thank you very much, Mr. Chairman, and thank you very much, Senator Stennis, for the fine introduction and support.

We have been talking about Indian housing for some time now, and I think the last time I appeared here was on September 22 on S. 856 and S. 2847. That bill was sponsored by our good Senator from Mississippi, Thad Cochran. A lot of the issues have been cleared up since that time, but there are a few more things that I would like to elaborate on in support of the bill.

Although the bill has undergone some major modification by both the Senate and House committees in the last year, there are a few things that I would like to bring up. Under title II, section 203(a), this section established an application process for new housing construction which would require preliminary drawings to be included in the proposal. We think that to do this would be an extra cost on the tribes, especially when they do not know if they will be approved or not.

I think the appropriate time to ask for specific plans and specifications of the houses would be the time that preliminary applications have been approved. When the final approval comes in, that is when the specific plans should come in along with it. It would save some time and costs for the tribe.

On section 203(b), the criteria for new housing construction application, which includes only past performance, capacity, and need for a definite number rather than percentage, I think if we go percentagewise instead of the actual need in numbers then we would have a problem. Only the tribes with very little capacity or the tribes that had not done very much in housing probably would have priority.

However, the need for housing is so great that I think it has to be done by numbers rather than by percentage. Unless performance and capacity are included as approval criteria, BIA could well end up in the same situation that HUD's Indian Housing Authority did before management criteria were added by HUD the year before last. It was well in the red.

There must be some incentive for housing agencies to maintain effective administration of funds. Withholding of additional housing units could certainly, I think, be appropriate. Along the same line this new housing agency will be in need of considerable technical assistance to prevent the HUD situation from recurring.

I think that technical assistance money should be set aside for the housing authority so that they can buy their own technical assistance in carrying out their responsibilities. Of course, the Senate bill does not contain the Davis-Bacon provision, which is OK with us because Indian tribes should have their own prerogative to establish their own wage rates consistent with those paid in the reservation area. Usually,

in a rural area, where prevailing rates are far lower than Davis-Bacon rates and where construction workers are not organized, we can save money for the homeowners.

Finally, I still have a major problem with the provision of attachment of tribal trust funds in section 205. I realize that the Government needs some way to avoid losses. but I do not believe that attaching tribal trust funds is the only way.

City and county housing programs currently do not have to pledge assets to HUD. Tribal debts should be treated in the same way as debts of other units of Government. Since section 205(c) provides that the Secretary cannot refuse to enter into a project agreement with a tribe that has no available trust funds, the section as a whole thus puts tribes with available trust funds at an unfair risk.

A far more equitable method would be to enable the Secretary to cut off additional housing financing until compliance with all previous agreements is achieved.

A debt is a debt. A tribe should be given the option to decide how any debt to the Government is to be repaid. I would like to reemphasize that if tribes that have demonstrated good performance and capabilities are acknowledged in the application ranking process, this would represent a significant reduction in risk to the Government and to the housing program.

I am glad to be here today, and I would like to thank the committee and the bill sponsors, Senators Cochran, Stennis, Andrews, Cohen, Murkowski, Nickles, and Stevens, for their concern and support of the American Indians in their need for housing. I would strongly support the enactment of S. 856, the Indian Housing Act of 1983.

Senator ANDREWS. Thank you, Mr. Martin, for an excellent statement. Without objection, a copy of your entire prepared statement will be inserted in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF PHILLIP MARTIN, CHIEF, MISSISSIPPI BAND OF CHOCTAW INDIANS

My name is Phillip Martin, and I am the elected Chief of the Mississippi Band of Choctaw Indians, a federally-recognized tribe of some 4,500 members in east central Mississippi, as well as the current President of the National Tribal Chairmen's Association.

Last September 22, I testified to this committee on the predecessor bill of S. 856, S. 2847, which was also sponsored by our junior Senator from Mississippi, Thad Cochran. I must say that the past year has seen an increase in interest and enthusiasm for the proposed Indian Housing Act among tribal governments. This may be due in part to having to endure another year of dealing with HUD, but the basic reason, I think, is that the bill treats the tribal governments on a "government-to-government" basis, a relationship which is very important to us. The bill also provides reinforcement to the policy of Indian Self-Determination through the endorsement of locally-created structures for dealing with the appalling Indian housing situation.

Although the bill has undergone some major modifications due to both Senate and House committee hearings last year, there remain in the bill several sections which I believe should be improved to avoid some major pitfalls.

Title II, section 203(a): This section establishes an application process for new housing construction which would require preliminary drawings and specifications to be submitted as a part of the application. This requirement would cause tribal housing agencies or tribal governments to expend funds on projects on which they are not sure they will receive approval. Instead of this process, units should be

reserved upon approval of an initial application, and a project agreement entered into later after submission of drawings and specifications.

Title II, section 203(b): I believe that approval criteria for new housing construction applications should include only past performance, capacity, and need as defined by number, rather than percentage, of substandard units. I can foresee a major problem in including as a criterion the percentage of substandard houses on a reservation, because it would penalize a previous high level of performance and would cause a uniformity of substandard housing levels for tribes nationwide.

Unless performance and capacity are included as approval criteria, BIA could well end up in the same situation as the HUD Indian Housing Authorities did before management criteria were added by HUD year before last: well in the red. There must be an incentive for housing agencies to maintain effective administration of funds, and withholding of additional housing units would certainly, I think, be appropriate. Along this same line, these new housing agencies will be in need of considerable technical assistance to prevent the HUD situation from recurring; and the committee may wish to consider raising the one percent ceiling on TA set in section 402(c). TA funds should be made available directly to tribes to contract for their own technical assistance, as the Bureau record in the provision of TA in other programs is far from outstanding.

I am pleased that the Senate bill does not contain Davis-Bacon provisions, as the House version does. The HUD Indian housing program is the only program for single family dwellings which requires Davis-Bacon wage rates, and their inclusion in this bill would extend them to the HIP program as well. Because of the semi-sovereign status of Indian tribal governments, they should be permitted to establish their own wage rates, consistent with those paid in the reservation area, usually a rural area where prevailing rates are far lower than Davis-Bacon rates and where construction workers are not organized.

I note that Title IV, section 403, provides for the Indian Health Service to continue furnishing water and sanitation facilities for Indian housing. While I think this is the better approach, the committee may, in light of two years of budget requests from the President for zero dollars for these activities, wish to consider alternative approaches.

Finally, I still have major problems with the provisions for attachment of tribal trust funds in section 205. I realize that the government needs some way to avoid losses, but I don't believe that attaching tribal trust funds is the correct way to do it. City and county housing programs currently do not have to pledge assets to HUD—tribal debts should be treated in the same way as the debts of other units of government. Since section 205(c) provides that the Secretary cannot refuse to enter into a project agreement with a tribe that has no available trust funds, the section as a whole thus puts tribes with available trust funds at an unfair risk. A far more equitable method would be to enable the Secretary to cut off additional housing financing until compliance with all previous agreements is achieved. The alarming need for housing on reservations and the thousands of families demanding standard housing would force tribal housing agencies to act quickly to solve any management deficiencies.

I would reemphasize that if tribes that have demonstrated good performance and capabilities are acknowledged in the application ranking process, this would represent a significant reduction in risk to the government. A debt is a debt; and tribes should be given the option to decide how any debts to the government are to be repaid.

I am grateful for the opportunity to again express my support for the Indian Housing Act to the Committee and thank the Committee and the bill's sponsors, Senators Cochran, Stennis, Andrews, Cohen, Murkowski, Nickles, and Stevens, for their concern about, and their positive approach to, Indian Housing.

Senator ANDREWS. Mr. Andrade.

STATEMENT OF RON ANDRADE, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, D.C.

Mr. ANDRADE. Thank you, Mr. Chairman. It is always a pleasure to appear before you. I want to say that we appreciate your giving us this opportunity to testify on S. 856, the Indian Housing Act of 1983.

NCAI is very supportive of this legislation. We recognize the Indian housing bill as a serious and laudible effort to provide comprehensive housing assistance to tribes to meet their housing needs without the bureaucratic entanglements that are present in the HUD program.

It is, therefore, with regret that we cannot wholeheartedly embrace legislation which requires attachment of trust funds. NCAI still maintains that a willingness to compromise trust funds should not be a prerequisite to the procurement of services under this act. We feel that such a requirement violates the Federal Government's stated policy that every American has a right to decent, safe, and sanitary housing.

We are not pleased, that of the four legislative proposals for housing assistance to tribes currently under consideration by Congress, three authorize the Secretaries of HUD and Interior to require tribes to submit to having their trust funds attached in order to participate in an Indian housing program. We feel that it is patently unfair to impose this requirement on tribes when there is no comparable requirement in the law for cities and States.

Furthermore, NCAI does not agree that passage of the Indian Housing Act rests solely on section 205. We feel that a more salient point of this bill is that it would eliminate redlining by banks and other lending institutions. It would also provide tribes with greater flexibility to meet the housing needs of all their members and avoid the bureaucratic entanglements tribes presently experience with HUD.

I would also like to say, Mr. Chairman, that there is a portion of the bill that we were questioned about during our testimony in the House. We said that we questioned the ability of the small tribes to participate under title II. Section 205(d) states that the Secretary may not refuse assistance on the basis that a tribe or Indian has no trust funds. We were asked to clarify that, which we have done by letter.

Our concern is that, if the tribe has only a small portion of trust funds but will not commit it to the housing program, the Secretary of the Interior could then bar them from assistance. If the tribe, let us say, had a very small amount, which I know many California tribes do, and could not commit it—they wanted to commit it to other economic development projects or it had already encumbered it for some reason, the Secretary could still use this to say they have trust funds and they must commit it again. We think it does hurt them.

We have recommended language. The amending language we have recommended is that:

> The Secretary shall not refuse assistance under this title on the basis that a tribe or Indian family has no trust funds to their credit or that the entire amount of a tribe's or an Indian family's trust funds are already obligated for purposes other than housing.

We do not agree that section 205 is needed, but if it must stand, we request that amendment.

NCAI is very concerned that section 3(5) still has not been changed to include Alaskan Natives under the definition of "Indian." The ex-

clusion of Alaskan Natives under this section is comparable to HUD's proposal to exclude Alaskan Natives from its housing program.

We again recommend that section 3(5) be amended to include Alaskan Natives as defined by the Alaska Native Claims Settlement Act, 43 USC 1601. Mr. Chairman, we clarified this as well for the House; at least we believe we clarified it in our testimony.

There are portions of the act that refer to individuals. There are portions of the act that refer to tribes. Under the tribe segment those individual Indians of the tribes are covered. Under the section referring to individuals they are not. The act as it is now requires "Indian" as defined in the 1934 act, in which Alaskan Natives are not specifically mentioned. That is why we are asking for that amendment, just a simple clarification. It is not as though, Mr. Chairman, the Department of the Interior is not prone to misinterpret a law.

NCAI is concerned that there is still no language in the bill including tribal courts under the term "court of competent jurisdiction." In light of *Wilson and Mildred Ahboah, and Robert Saumty* v. *Kiowa Tribal Housing Authority*, we strongly suggest that this be done. For too long Indian housing authorities under HUD have gotten away from tribal councils. Too many of them have forgotten that they are part of the tribe, not HUD or the State.

In that case, Mr. Chairman, the housing authority attempted to sue the tribe or some Indians on trust land in State court. The State court said that they had no jurisdiction. We feel that if the State court of Oklahoma is willing to recognize the tribal courts as courts of competent jurisdiction, then this legislation should as well.

We would also like to have a strengthening of the Indian preference provision based on the recent Supreme Court decision, *White et al.* v. *Massachusetts Council of Construction Employers, Inc., et al.*, which upheld a local government's policy to reserve 50 percent of the jobs on public works construction projects for its residents. We feel that this also should apply to the tribes and that they would be able to reserve jobs on the reservations in housing construction.

We have had problems with HUD in the past on Indian preference. We think that the *White et al.* decision would potentially help the tribes out.

Finally, but of equal importance, we are concerned that passage of an Indian Housing Act would diminish the BIA's authority under the Snyder Act, 25 U.S.C. 13, to provide housing. We recommend that the following language be added to title IV:

Nothing in this Act shall impair any existing authority of the Bureau of Indian Affairs under the Snyder Act (25 U.S.C. 13).

We are concerned, Mr. Chairman, that the act does separate Indian housing away from the Snyder Act. We just want, for protection, to have it made clear in the act that this would not relieve the Bureau of Indian Affairs, under Snyder Act authority, from maintaining their housing programs.

We do offer, Mr. Chairman, our full support for S. 856, pending the amendment of section 205 to remove the attachment requirement and the adoption of the recommendations we have made here.

This concludes my testimony. Again, we are very supportive of the legislation.

23-603 O - 83 - 4

Senator ANDREWS. Thank you, Mr. Andrade.

There is a vote going on on the floor of the Senate. I am going to have to go over there. Because I know that your time is important, rather than stop the proceedings until Senator Murkowski or Senator Melcher or myself gets back, I am going to have Paul Alexander, our staff director, continue so that you can get your testimony into the record and we can ask questions that we feel are appropriate.

So, if you will proceed in that manner, I will get back as soon as I can, and I am sure that Senator Murkowski and Senator Melcher will also be back as soon as they can.

Mr. ALEXANDER (acting chairman). Mr. Young?

STATEMENT OF NATHAN YOUNG III, VICE CHAIRMAN OF THE NATIONAL AMERICAN INDIAN HOUSING COUNCIL, CARSON CITY, NEV., ACCOMPANIED BY RON FROMAN, TREASURER, NATIONAL AMERICAN INDIAN HOUSING COUNCIL; AND JOHNNYE CHOPPER, CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Mr. YOUNG. Thank you. My name is Nathan Young III. I am vice chairman of the National American Indian Housing Council. I have with me today, to my left, Mr. Ron Froman who is our treasurer, and our chairman, Mr. Johnnye Chopper.

I would like to offer a few things, if I could, for the record. First of all, I will offer the testimony of the National American Indian Housing Council that we gave March 23 to the Senate Rural Housing Subcommittee concerning the administration's proposal, S. 644. With your permission, Mr. Chairman, I will comment upon that testimony at the conclusion of my testimony.

I would like to also offer into the record a letter dated April 18 from me to Assistant Secretary Phil Abrams concerning the lack of Indian consultation that deals with Senate bill 644.

Finally, one of my other dubious distinctions is that I am also counsel for the Cherokee Nation and counsel for the Cherokee Nation Housing Authority. Since I work for somebody else, I often have to cater to their needs. I would at this time, with your permission, introduce the testimony of my employer, Chief Ross O. Swimmer on Senate bill S. 856.

Mr. ANDREWS. Without objection, copies of those documents will be inserted in the record at this point.

[The documents follow: Testimony resumes on p. 52.]

PREPARED STATEMENT OF NATHAN H. YOUNG III, VICE CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, BEFORE THE SENATE RURAL HOUSING COMMITTEE, MARCH 23, 1983

Mr. Chairman, members of the Senate Rural Housing Sub-Committee, the National American Indian Housing Council appreciates the opportunity to testify on the Administration's 1984 budget proposals affecting Indian housing.

To say that we are disappointed would be an understatement—outraged would be a better word.

While many aspects of the Department of Housing and Urban Development's (HUD) proposed Indian Housing Program have remained secret from us, the use of FHA insured mortgages has not.

Time after time, Tribe after Tribe, Indian group after Indian group, even HUD's field staff, the Indian Health Service, Farmer's Home Administration and

the Assistant Secretary of the Interior for Indian Affairs, have told the HUD Central Office that a program based on FHA insured mortgages simply won't work.

On December 6, 1982, at a meeting called by Secretary Pierce with a cross section of Indian tribes and Indian organizations, this concern was told directly to him. I would like to submit for the record, a copy of a letter given to Secretary Pierce by Johnnye Chopper, Chairman of the National American Indian Housing Council.

The Secretary told the group he was unaware of this criticism of the HUD proposal and promised to review the proposal and further promised to reconvene the meeting in January 1983, to discuss the matter. No meeting was held; instead, we are here to discuss this proposal before this Committee.

Mr. Chairman, this convoluted proposal is nonsense. To attempt to argue the merits or lack of merit gives credibility to the proposal that is undeserved.

An elementary understanding of single-family home financing procedures and a rudimentary understanding of Indian tribes should indicate to any sensible person the folly of this proposal such as:

1. Every individual Indian family would have to go off-reservation to obtain their financing. Not only will they not go, but even if they did, does one really believe lending institutions have suddenly been transformed into charitable organizations.

2. Lending institutions refuse to lend any money to any Indian if, to protect their loans, they must initiate a default procedure in Tribal Court. HUD has told us that by having the Tribe as co-mortgagor, they believe that Tribal Courts would be bypassed, thus denying due process and making shambles of the thirteenth amendment which protects the rights of every American citizen in this country.

Of equal importance, it would be contrary to the stated policy of Congress and the President in protecting the Trust.

The Tribes are being asked to accept the termination of three Federal programs that have proved their worth over many years, the Indian Health Service's sanitation program, the Bureau of Indian Affairs' Housing Improvement Program and the Department of Housing and Urban Development's Indian Public Housing program.

Let's compare what we would lose for a program that won't work.

	1983	1984
HUD Indian public housing program	$362,000,000	0
IHS sanitation program	14,000,000	0
BIA housing improvement program	23,000,000	$22,000,000
Indian CDBG	0	75,000,000
HUD Indian housing program	31,000,000	76,000,000

On February 24, 1983, HUD presented to the Senate Select Committee on Indian Affairs their FY-1984 Proposals. As a result of Assistant Secretary Phil Abram's testimony, I must say, I'm greatly confused. Just a few of many questions come to mind.

1. If FHA has insured loans on trust land in Oklahoma and on the Navajo Reservation in the past, why do they now need to amend the law to enable them to do so today.

2. If a tribe must reimburse the FHA general insurance fund for defaults that may occur, what's the use of having FHA insurance.

Obviously, the past experience at Navajo and Oklahoma needs to be examined. The answer to the above is they need neither. On some allotted land there is no legal impediment keeping a lender from lending money. It is now, and always has been, the fear of adjudicating a default procedure in Tribal Court that prevents a lender from extending a loan.

In closing, I would like to make a comment; whereas, I hope this committee will understand my concern. We have met monthly with Department of Housing and Urban Development since October discussing the FY–1984 Proposal. Each and every time we came back for a subsequent meeting with HUD informing us that everything is subject to change and negotiations. In dealing with such a sensitive issue, that is the Trust and the government's Trust Responsibilities, we would hope that the Department would be truthful. Therefore, I urge you to strike from Senate Bill 644, Section 202 in its entirety.

Thank you.

PREPARED STATEMENT OF NATHAN H. YOUNG III, VICE CHAIRMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, APRIL 19, 1983

Mr. Chairman, members of the Committee, we are pleased to testify on the Indian Housing Act of 1983, S. 856.

The National American Indian Housing Council is an organization of Tribal Housing Authorities dedicated to the betterment of housing conditions for American Indians. Heretofore, our efforts have been concentrated on the HUD low income Indian housing program for the simple reason it was and is the only housing program of any size, private or otherwise, available to American Indians residing in Indian areas.

For the past several years we have witnessed a critical examination of the HUD Indian Housing Program by the administration with the professed goal of making the program more cost effective, more simple, and improving the program's integrity. An interagency task force, headed by Ken Smith, Assistant Secretary for Indian Affairs, was formed in October of 1981 to accomplish this task. The task force submitted its findings and recommendations in April 1982, to the Office of Management and Budget. Those recommendations were in tune and in fact complimented the Indian Housing Act of 1982, which was being considered during this time by the Senate Select Committee on Indian Affairs under S. 2847. We know of no other recommendations that have merit. The reason is simple. Reasonable cost effective methods for building housing in Indian areas are very limited by virtue of the trust land and relatively low incomes.

Presently, there has been proposed a HUD Indian Housing Program (H.R. 1901 and S. 644) with the professed goal of making the program more cost effective, more simple and improving the program's integrity. As so often is the case, it is easier to criticize, but much more difficult to do something about it. To accomplish these goals, apparently HUD is proposing a program based primarily on a Section 8 voucher type of system, under the handle of "Vouchers." We consider this totally unrealistic since such a program depends upon the availability of existing rental units which we all know are simply not available in Indian areas. In addition, the voucher program, in our opinion, would be more complex and more costly than the present HUD program.

The Indian Housing Act of 1983 shows that the Committee has maintained a history of the Indian housing effort. To paraphrase a famous quote, "Congressional Committees who don't study their history are doomed to repeat it." Well, it's quite evident there is no danger of that occurring with this Act. For the first time, we have a proposed Indian housing program designed for the special needs of Indians and not an aberration of some existing urban program. The need for such a program has been well documented by past testimony. We commend the Committee for taking into account the past testimony and incorporating such into the Act.

Clearly, this bill is a far less complicated approach to Indian housing. This Act consolidates the program into two sister agencies requiring the same authorizing and appropriations committees in both the House and the Senate. No longer will we have to deal with the much criticized "Tri-Agency Agreement', or the myriad of Congressional Committees. Also, the Congress will not be put into an embarrassing posture of one Agency requesting funds, the other Agency requesting no funds, with the Indians and bureaucrats trying to make sense of it all. The present HUD Indian Housing Program requires 16 separate Committees and Subcommittees in the House and Senate instead of eight as would be necessary under this Act.

Title I of the Act provides a new legislative base to BIA's Home Improvement Program authorized under the Snyder Act. Funds authorized under this Title do not represent "new monies" since this program is already in existence. However, the Act corrects some shortcomings and closes some glaring loopholes in the existing HIP program.

Section 102B requires insurance on housing constructed, acquired, or improved. All too often have we seen repairs done under the HIP program lost due to fire or other hazards resulting in the Indian family being without adequate shelter and by definition without resources to replace the damaged unit. In those cases where tribal resources are inadequate to provide for the cost of insurance, the tribe may require a minimum payment to cover such cost.

Section 104 prevents profiteering on the sale of an improved unit which has occasionally occurred in the past.

The revolving loan fund established by Title II of the Act will result in diminishing financial involvement of the Federal Government and is in tune and makes more sense in these times of diminished Federal resources. It also answers one of our major concerns of a long term commitment of the Trustee. Why shouldn't we make the payments made by the Indians work for the program as well as the taxpayers?

Section 205 of the Act may cause many tribes to have reservations about risking their tribal trust funds in event of non-payment. Only the tribal government itself has the authority to carry out its responsibilities, and where they do not, then only that tribe alone should suffer the consequences and be held accountable to its tribal members. As a result, and of greater importance to us, no longer will one tribe operating its program effectively suffer the consequence of another tribe's transgressions. Without question, the impact of this section will greatly enhance the program's integrity. However, we would strongly recommend that Section 205 be amended to reflect that a tribe will only be brought under that provision until it has established a "bad track" record in its management of the Housing Program.

Title III provides loan guarantees for those Indians whose income is such that they could support a mortgage were it not for the limitations imposed by the trust land status. To date, this Title is the only means advanced so far to deal with this small but growing segment of the Indian population whose housing needs are just as great as anyone elses.

Ultimately, the long term economic development impact of the bill may be its most meaningful feature. Low-income housing alone, by definition, limits its impact upon economic development activities. Housing opportunity for a broad range of incomes and economic development are dependent one upon the other. Absent one or the other, neither can go forward with any assurance of success. Today, economic development and the resulting jobs are woefully lacking in Indian areas. This bill, if passed, will finally put in place the basic ingredient so vital to this activity and heretofore absent.

The inclusion of rehabilitation as an eligible item under all titles of this bill will lower the unit costs and enable the tribes to house more people than thought possible with the same amount of money under the HUD Indian Housing Program. No longer will a $10,000 to $20,000 problem result in us razing a house and building a $50,000 house in its place. All the forces, such as maximum payment, lower payments on rehabilitated houses, and simplicity of program design, work towards a more judicious use of Federal funds.

This act does not give the Indians an open checkbook. Section 405 requires the Department of Interior to report to the Congress bi-annually a housing inventory. This has never been required. The inventory will greatly assist the Congress in determining need and the subsequent appropriations necessary to meet that need. Section 405 will also assure, as far as is possible, a fair allocation of housing resources to the tribes.

In conclusion, we stand ready to assist the Committee in this endeavor. If ultimately we fail and no housing program remains, the lifestyle of the reservation will remain bleak and may become intolerable. We hope we are not reverting to that forgotten era of Federal Indian Policy many of us refer to as "Benign Neglect".

PREPARED STATEMENT OF ROSS O. SWIMMER, PRINCIPAL CHIEF OF THE CHEROKEE NATION OF OKLAHOMA, BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS, APRIL 19, 1983

Mr. Chairman and members of the Select Committee, I am pleased to have been given the opportunity to present testimony, on behalf of the 32,000 adult members of the Cherokee Nation of Oklahoma and the Board of Commissioners of the largest Indian housing authority in the country, in support of Senate Bill 856, the Indian Housing Act of 1983.

In the mid-1960's, the dream of obtaining safe, decent, sanitary housing, a dream which was extended to all other Americans by Congressional Act 25 years earlier, was offered to Indian people. Our dream became possible when Congress amended the regulations governing the Department of Housing and Urban Development's low income public housing program by establishing a special section

within HUD to deal with the unique problems of Indians, problems which arise because of the special relationship between Indian Tribal and the United States governments and the places—primarily reservations in remote America—where Indians live. These amendments had the ambitious goal of solving the so-called "Indian housing problem" within 10 years, by targeting a specified number of units of public housing for Indian people.

In spite of this ambitious program and the belief that the Indian housing problem could be resolved in 10 years, we find, 20 years hence, that, by the government's own calculations, more than 40 percent of all Indians live in substandard houses. According to a 1978 study by the Cherokee Nation and the Bureau of Indian Affairs, more than 10,000 Cherokee families live in homes that fall below minimum government standards for habitability. Despite these grim facts and the failure of the HUD-administered housing program to adequately address the Indian housing problem, the Administration has proposed an alternative program that is not capable of building housing in Indian Country.

The initial plans of the government to address the Indian housing problem through amendments to public housing legislation appear to have been well-intentioned with their inclusion of such programs as the mutual help and low-income rental housing programs. Because the regulations governing the administration of general public housing programs were not amended to take into consideration certain characteristics peculiar to Indian Tribes, however, the program was destined to encounter serious problems which have inhibited its success and have contributed to the need for S. 856.

One of the problems which has aroused the most concern in Indian country and Congress is the high cost of constructing public housing on Indian land. It has been estimated that the average cost of constructing an Indian HUD house in fiscal year 1983 will be about $72,000 compared to $60,000 for a non-Indian HUD Home. These high costs are attributable to:

1. The regulation which requires HUD-constructed homes to adhere to national minimum property standards rather than local or regional building codes;

2. A method of financing HUD-constructed homes through which the government sells 30-year bonds, thereby incurring an unnecessary long-term interest expense;

3. The failure of the Bureau of Indian Affairs, Indian Health Service and HUD to enter into cooperative agreements whereby the former agencies, also responsible for Indian housing and sanitation facilities, would coordinate their housing construction, inspection and legal assistance programs with those of HUD (The failure of the three agencies to cooperate in providing Indian housing assistance has also cost the federal government millions of dollars, unnecessarily, in triplicate program administration fees.); and,

4. The Housing Act's requirement that HUD contractors pay Davis-Bacon wage rates, which add an estimated 10 to 15 percent to the cost of each new HUD house.

The second problem which is of great concern throughout Indian country and which has contributed to the failure of the Indian housing program to capture full Congressional and Administration support is the excessively high rate of tenants who are delinquent in their payments. This problem, too, is rooted in the failure of HUD regulations and administrative practices to respond to characteristics unique to Indians.

1. When the initial public housing legislation was enacted in 1937, Oklahoma passes laws which created municipal and county housing authorities. As are the locales in which they are situated, the housing authorities were considered "creatures of the State." When the Federal housing act was amended to include Indians as eligible to receive HUD housing assistance, the State law was amended to enable Indian Tribes to similarly organize housing authorities. Any Indian housing authority so organized retained the status of a State agency, although, unlike municipal and county governments, Tribal governments are not creatures of the State, but enjoy a unique relationship with the United States.

HUD's administrative practices have propelled this oversight into a problem: by ignoring the traditional social and political role of Tribal governments, preferring instead to isolate Indian housing authorities from these governments, HUD has alienated the Tribes from lending the support they should give to the collection of delinquent payments.

2. With eligibility to occupy a HUD-constructed house being based upon a low income level and the absence of standard housing constructed and financed through private sources and with the poverty and lack of adequate private housing rampant throughout Indian country, Indians have no difficulty in qualifying for HUD housing.

Since HUD housing payments are based upon a sliding scale that is tied to an occupant's income, a person who initially meets the eligibility criteria and later obtains a job is penalized for bettering his/her family's condition. Most Indian housing authorities are sufficiently socially and politically atuned to realize that, while HUD allows them the option of evicting or increasing the payment of a wage-earning occupant, the latter is the only viable choice they have. Faced with a much higher payment than they originally anticipated and which they cannot afford, the now-working occupants become (and stay) delinquent in their payments.

As the rates of delinquency skyrocket, HUD blames the housing authorities; the housing authorities blame the Tribal governments; and the Tribal governments blame HUD and the housing authorities.

S. 856 proposes a comprehensive Indian housing program which would address all of the factors which contribute to the high cost and excessive delinquency rate attendant with the present HUD-administered program. By vesting Indian Tribal governments with the responsibility for directly administering the housing programs, those Tribal governments will be answerable to their voting constituents for keeping the cost of each house's construction within reason, thereby increasing the number of homes which can be built with the Tribe's allocation, and for invoking acceptable sanctions against those who become delinquent in their payments. Delinquencies are further controlled by Section 209 of the Act which limits annual upward adjustments to no more than 50 percent of the occupant family's current payment. In the event that an occupant does become delinquent, the Secretary of Interior is empowered, by Section 205 of the Act, to attach the delinquent individual's or Tribal trust land to recover the debt.

By creating a revolving fund through which the construction of Indian homes will be financed, the government will not incur the costs associated with the current financing procedure in which interest-bearing bonds are sold with 30-year maturity dates.

By consolidating all of the programs designed to assist in the construction and improvement of Indian housing into one agency, services will be better coordinated (and less costly) and the government will avoid the unnecessary cost of maintaining three bureaucracies with one goal: the improvement of Indian housing conditions.

By eliminating the existing requirement that Indian housing contractors pay Davis-Bacon wage rates, the cost of constructing an Indian house under S. 856 will be reduced by 10 to 15 percent.

In addition to correcting many of the weaknesses inherent in the current Indian housing program, the comprehensive program which would be authorized by enactment of S. 856 addresses several areas of housing need which are now neglected.

1. The Bill provides a statutory base for and ensures the continued existence of the Housing Improvement Program, currently administered by the Bureau of Indian Affairs. We have found the HIP program to have been an extremely cost-conserving and effective program which allows us to renovate and modernize homes, particularly those occupied by the elderly, which might otherwise have required demolition and the expense of constructing a new home.

2. Section 218 of the Bill authorizes Tribal governments to use funds from the Indian Housing Finance Fund to pay up to 10 percent to the purchase price of a house as a downpayment for privately-constructed and conventionally-financed housing. This provision would enable Indians, regardless of their income level, to buy that rarest of commodities—conventionally-financed housing—which has almost become extinct in Indian country.

3. Title III of the Bill establishes a loan guaranty fund which will enable Indians whose access to conventional sources of housing financing has been restricted because of the lender's unwillingness to lend money for which he has no collateral, to access that financing. Through the fund, the government will guarantee up to 100 percent of the unpaid principal and interest due on any loan made to an Indian for the construction or acquisition of a house on trust land. In the event of default, the local lender, as is the usual case, is required to exhaust all of his remedies before he may exercise the guarantee.

In summary, S. 856, if enacted, will establish a comprehensive housing program which addresses all of the housing needs existing today in Indian country. Through local control of financing, by using local construction codes, by building houses which are better suited to the needs and wants of the families which will occupy them, by eliminating the burden of Davis-Bacon wage rates and through vesting authority for the program's administration in the government closest and most responsive to the eventual occupants, the government can operate an effective Indian housing program at a cost which is much less than the current program.

NATIONAL AMERICAN INDIAN HOUSING COUNCIL,
Carson City, Nev., April 18, 1983.

Re Senate Bill 644.

Assistant Secretary PHIL ABRAMS,
Department of Housing and Urban Development,
Washington, D.C.

DEAR MR. ABRAMS: On April 12th, Pat Arnaudo contacted my office inviting me to meet with you to discuss S. 644. An appointment was made by Ms. Arnaudo for an April 20th meeting. However, after a great deal of thought, I have decided to decline this invitation.

On December 6th, representatives of the National Congress of American Indians, the National Tribal Chairman's Association, and the National American Indian Housing Council met with you and Secretary Samuel Pierce to discuss HUD's FY–1984 Proposal for Indian Housing.

All of the groups expressed their unanimous opposition to the HUD Proposal and expressed outrage over the total lack of Indian consultation. Secretary Pierce expressed his surprise over the unanimous opposition and promised to meet with us in January.

January came and went and there was no meeting. However, on February 4th, your Department sent to OMB for approval (under Secretary Pierce's signature) the very Proposal that had earlier been opposed.

Further, on February 10th, representatives of your Office (Jim Baugh, Ray Combes, Pat Arnaudo) came to an NAIHC Board meeting at Arlington, Virginia, and lied to us about the status and contents of the HUD Proposal. Also present at that time were the executive officers of the NTCA, NCAI, Counsel and staff members for the House Interior Committee and the Senate Select Committee for Indian Affairs. Everyone present had a copy of the HUD Proposal (dated February 4th) that was sent to OMB. Everyone there expressed total indignation over the deliberate misrepresentation given by HUD. (There is a complete and accurate recording and transcript of that meeting).

Now, after the fact, I am asked to come, yet, for another meeting on the HUD Proposal. When the Cochran-Udall Indian Housing Act was being drafted there was nearly a year of intense consultation with various Indian organizations and tribes.

When it is considered that the HUD Proposal will radically alter the relationship between the Federal Government and the Tribes and, undoubtedly, is the most dangerous piece of Indian legislation since the movement to "terminate" the Tribes, I consider the few minutes of consultation with you totally inappropriate.

Yours truly,

NATHAN H. YOUNG III,
Vice Chairman, Legislative Liaison.

Mr. YOUNG. Mr. Chairman, I will summarize our position. The National American Housing Council is an organization of approximately 200 Indian housing authorities, with the sole purpose of trying to meet the needs of the Indian housing community, to work and to endeavor ourselves to the squalid and terrible conditions that exist today in the Indian country.

For the past 15 or so years, Mr. Chairman, we have received approximately 40,000 units of housing from the Department of Housing

and Urban Development. of course, that is a department that does not have a specific Indian orientation.

In the past couple of years, as Senator Andrews has stated, the Department has moved and attempted to terminate the Indian housing program. As a result of this, about 18 months ago several individuals from Indian country involved in tribal and housing affairs began to work with members of this committee and members of the House Interior Committee in drafting an alternative housing program.

It was our desire to come up with a housing program specifically tailored for the Indian community that exists within the Indian country. Mr. Chairman, I am quite pleased to see this committee introduce this bill. I, myself, Mr. Froman, Mr. Martin, and Mr. Andrade have all participated in one way or another in the drafting of this bill. We are quite pleased to see this committee bring forth this piece of legislation.

Mr. Chairman, let me mention two or three things about this bill, and then Mr. Froman will testify.

Mr. Chairman, we have had some unique problems in the Indian country with the existing HUD program basically because the HUD program is intended for urban housing. It is not intended to deal with Indian country or to understand this unique relationship that exists between the Government and the tribes.

This bill attempts to address this, and as I stated earlier, to tailor the program to the needs of the Indian community. Mr. Chairman, this is a comprehensive housing program. At the present time all we can do—and I am also counsel for the largest Indian housing authority in the Nation, the Cherokees—all we can do is go out and build a new house. We cannot go out and substantially repair a house. We cannot go out and help people secure loans on trust lands. All we can do is build a new house, which is not a very worthwhile use of our scarce resources.

So, when we drafted this bill and began working with the various committees up here, we decided we needed a comprehensive housing program. This program, Mr. Chairman, serves all the income groups in Indian country. It serves the very low, what I consider the title II working class on the reservation, and title III, through the loan-guarantee program, those individuals who have adequate resources, because of the trust status of the land, are unable to secure any type of financing for private homes in Indian country.

Mr. Chairman, one of the reasons—we have heard some criticism at other hearings about this bill being so long—one of the reasons we made this bill so specific when we worked with the various committees was to give this program a statutory basis to protect it from the Snyder Act. I have all my life, as has Mr. Froman here, been a recipient of the trust. I have been through all the Bureau programs. I am a Bureau brat. I guess if there was a program, I went through it, and I understand and appreciate the Snyder Act.

However, the Snyder Act also has some weaknesses. We felt that, because of the weaknesses of the Snyder Act, the ability possibly of the Bureau to reorganize and to make decisions, this bill by being so detailed and specific gave us some type of statutory protection.

Finally Mr. Chairman, this is what we consider a reform bill. We have taken all the weaknesses of the existing HUD program—and we appreciate the 40,000 units we have out there in Indian country, but

I am telling you that the redtape and the problems and the burden of running an urban program in Indian country is overwhelming. We have, we felt by this legislation and with our participation in it, tried to reform and take away the weaknesses of this urban housing program placed out in the Indian community.

Mr. Chairman, I have three criticisms to offer very quickly. I hope you will take these as positive criticisms of this piece of legislation.

As previously mentioned by my colleagues, Mr. Martin and by Mr. Andrade, there is some concern with section 205 dealing with the attachment of trust funds. You cannot hide the concern over that through our membership.

Mr. Chairman, I myself have an ethical problem with it. I do not see the attachment of trust funds for the city of Chicago or the city of Los Angeles or the city of New York when they become delinquent in their housing programs. However, Mr. Chairman, I am also not blind to reality. I am aware that today there are existing problems with delinquencies in collection in the HUD mutual health Indian housing program.

Section 205 does bring some type of program integrity. It does allow us to protect the program from abuses. However, Mr. Chairman, we would offer an amendment, and I have included that amendment in my testimony. Our amendment would be that a tribe or a tribal housing agency would not come under section 205 until it has established a bad management track record.

In other words, Mr. Chairman, there is not the assumption when you make an application for housing that you are a bad credit risk. It is only until you have demonstrated that you are a troublesome housing authority or troublesome tribal housing agency that possibly then should there be some provision that you would come under section 205.

As my colleague, Mr. Froman, often says, he does..'t see the need for us to go under section 205 from the get-go, if I can use the Oklahoma vernacular.

Mr. Chairman, I have a second positive criticism; that is the Bureau of Indian Affairs. It is a bittersweet feeling that many of us have toward the Bureau of Indian Affairs. I appreciate the fact that they have educated me, clothed me, along with Mr. Martin and Mr. Andrade and Mr. Froman. They have probably done more for me than my parents.

However, Mr. Chairman, there is a question of the Bureau of bureaucracy. I will point out something else to you. If you go back and examine the legislation that is offered by this administration in S. 644 and H.R. 1901, regardless of your feelings about the Bureau of Indian Affairs, if you look at what HUD wants to do to Indian country, and what they want to do to the tribes, and all their cavalier attitudes toward the trust and toward the trust responsibility, the lack of understanding of the operation of Indian country, then, Mr. Chairman, I want to tell you that the Bureau of Indian Affairs looks sparkling clean compared to HUD, and it hurts me to say that. However, those are our feelings.

Mr. Chairman, the third criticism is that there is not enough money. Now, I realize that we have a huge Federal deficit, and I understand

the administration's desire to increase the military spending. I also can drive you through Indian country and show you conditions that would shock your conscience.

Neither do I believe in the tooth fairy. Neither do I believe that you are going to give us an open checkbook. However, we understand the bill provides for, I believe, $200 million in authority. We would like, of course, to see more, but we can live and work with $200 million. If you want to give us $400 million, Mr. Chairman, I will not complain. I promise you.

Finally, in closing, I will mention several things. This bill, Mr. Chairman, is the only viable program that will build housing in Indian country today. We are practitioners, Mr. Froman, Mr. Chopper, and I. We run housing programs. I run the Nation's largest, the Indian Housing Authority, and I can tell you S. 856 is the only way we are going to reach those people and build housing in Indian country. It will meet the needs of the Indian community. I recommend and support its passage with the amendment that we offered in section 205.

Mr. Chairman, I will mention one thing in closing, and that again is S. 644. It is probably the most dangerous piece of Indian legislation that has come about since the attempt to terminate the Indian tribes back in 1950. It would radically alter the relationship between the tribes and the Government and would probably involve the greatest alienation of the trust that we have seen since the General Allotment Act.

Mr. Chairman, I would like to offer Mr. Ron Froman. Mr. Froman has become an expert on title III and secondary mortgages. I understand the desire of this administration to get private dollars out in Indian country. I would like to see private dollars out there too, without some type of alienation of the trust.

At this time, with your permission, Mr. Chairman, I will introduce our secretary-treasurer, Mr. Ron Froman.

Mr. ALEXANDER. Mr. Froman?

STATEMENT OF RONALD FROMAN, TREASURER, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, CARSON CITY, NEV.

Mr. FROMAN. Thank you, Mr. Chairman. The idea of using private money, or to allow families who can sustain a mortgage to obtain housing within the trust situation on trust lands has been one of the things that we have been working on for a number of years.

Title III specifically, the loan guarantee program, to my knowledge has been drafted and worked on and so forth for approximately 5 years. There has been some testimony here given by the Department of Housing and Urban Development—and we will probably hear it later this afternoon—that title III is unworkable, that title III is not subject to the secondary mortgage markets, et cetera.

When we drafted this, when we looked at it, we went to the Federal Home Loan Bank Board, talked to them about it, and so forth. As a matter of fact, yesterday I spent almost 1 hour over at Fannie Mae here in town finalizing some previous conversations that we had with them.

The business of the secondary markets in the housing, financing, and so forth is extremely critical. No lending institution, be it a mortgage bank or a savings and loan, wants to get caught in a trap whereby they issue a mortgage and they have to hold it in their own portfolio without any ability to go into the secondary markets in selling it.

This is something that for many people who have been following the savings and loan industry, or the thrift industry, they have realized when they got caught with their cost of funds going up and withholding funds, et cetera, at low yields. They have gotten into serious trouble. We found that a lot of them became so serious that they in fact failed. They went through a whole series of reorganizations, and it is still going on.

Last September the Assistant Secretary for HUD, Phil Abrams, said that this program was not subject to the secondary mortgage markets. This is not the first time that misinformation has been given out about this bill. It is not the first time that the department has given misinformation to us Indians, if you will.

It seems like it is almost a fetish, if you will, that they have to destroy this, that they have to malign it, and nothing is sacred, not even the truth. I think last month, I said before this committee that they are bound and determined that they are going to drive that wagon. They do not care if they drive it off into the Arkansas River. It seems to me that they are now bound and determined to go all the way to New Orleans. I am not indisposed to go into New Orleans, but this is a heck of a way to go.

First of all, the 95-percent proviso within this, which is the minimum that would be under the loan guarantee, would work from anywhere from 95 to 100 percent of it. When we initially talked to the Fannie Mae people about this, they said that that would probably be less marketable. In other words, these mortgages would be less marketable because there was a standard 5-percent risk.

We asked them what would happen if you coupled this with private mortgage insurance because the conventional market, the conventional loan issues, depend almost entirely upon a private mortgage insurance provision to allow them to lessen the risk, et cetera. They said it would be no particular problem.

In investigating this and going back and talking about it, we came up with some startling information about it. No. 1, is that the information that was given before this committee concerning title III being not subject to the secondary mortgage market is simply not true. The truth of the matter is that the administration's position of the FHA is not subject to the secondary markets.

There has been, since March 1956, no legal impediment whatsoever from a standpoint of an Indian on his individual allotment going through FHA or any other mortgage market, that the provision within the law is that the Secretary of the Interior can approve those mortgages subject to his approval. To cite that case it is title 25, paragraph 483(a).

Now, in a period of time, 27 years, in which there has been no FHA mortgages, there have been no mortgages issued there irrespective of the fact that the law does not prevent it. Why did it not happen? There are a couple of reasons for it.

No. 1, the primary reason for it is that the mortgages cannot be serviced for the standard service fee that a mortgage bank receives. The service fee by these banks is the bread and butter of the industry. They sell those mortgages into the secondary market, and they retain a service fee. You cannot service in the prescribed manner on these mortgages on Indian reservations for the standard service fee. That has to go up for starters.

No. 2, is that any foreclosure, et cetera, the protection would have to be within the tribal court, thereby increasing the risk, at least the so-called feeling of it. I am not sure that that is necessarily true, but that has nothing to do with it. It is the perception on the part of the lender as to how much he is actually having.

When you couple those into it, you cannot get into it. We have a program now that is being sponsored and being touted by the administration, specifically the Department of Housing and Urban Development, that they are going to take FHA and they are going to take it, and that is the answer to the Indians. They say that they are going to make a write down and a block grant write down, and they are going to be able to offer all of this. It does not make any difference.

We have done some studies on this particular feature. The Indian who would be borrowing under the FHA would have to pay two to three times as much money up front in the points of discounts to cover these service fees—and this is all laid out in my testimony—as a borrower would, say, in Arlington, Va.

That loan is not the key issue. The key issue is that you take an FHA business in which a lender or an investor would look at it as saying, all right, I will take this loan, but I have to have the ability to go elsewhere. What we are saying is that the discounts are not transferable from the standpoint of the service fee because the secondary markets only allow a certain percentage.

Now, again, if we wanted to go through Ginnie Mae, there is more than one mortgage market or secondary market other than Fannie Mae. Ginnie Mae is Government owned. I think in the testimony here the followup question was that the committee asked the Secretary what language would make this subject to the secondary markets. He replied that we would include Ginnie Mae. Well, Ginnie Mae is not the only one.

The reason that they wanted to do that is twofold. One reason is, if they take it, from the standpoint of Ginnie Mae, this committee could not handle that particular language. It has to go back to the Senate Banking Committee. We know what happens over there. On March 23, they had four witnesses, two of which were supplied by HUD. They gave them 10 minutes and asked them seven questions, and now they are ready to determine the future for Indians for the next 10 or 15 years as far as housing is concerned. I think that is probably what we would wind up with over there.

In closing, I think that it is absolutely necessary, Mr. Chairman, that we do wind up with private enterprise or a means or an avenue of getting it. I submit to you and request that the committee, if the committee doubts what we have talked about, go talk to the Fannie Mae people yourselves. Do not just depend upon me. Go talk to them.

I think that you will find that title III would be probably the only feasible means of getting that.

Thank you very much.

Mr. ALEXANDER. Thank you. Without objection, a copy of your entire prepared statement will be inserted in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF RONALD FROMAN, TREASURER, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Mr. Chairman, members of the Committee, the use of FHA insurance to attract private capital for housing on reservations and on trust lands is seriously flawed.

The availability of secondary mortgage markets such as FNMA or GNMA are absolutely necessary for FHA mortgages. Since FHA insured mortgages are at a lower interest rate than are rates for conventional loans, they are discounted to receive the desired yield rate. The originating mortgage retains the servicing obligations when these mortgages are sold to the secondary markets. This service fee of ⅜ of 1 percent of the mortgage is included in the projected yield rates. If FNMA yield rate is 13.15 percent, included is the ⅜ of 1 percent for the servicing fee, which is the maximum allowed by FNMA or GNMA.

Under the DHUD proposal, the service fee would be $56.25 a year for a $15,000 mortgage, calculated as follows: $15,000 × 1 percent × ⅜ = $56.25. A lender cannot service these mortgages on reservations for this amount of money. The service fee would have to be increased, thus increasing the discounts. We have been told these servicing fees would have to be increased to 2 percent or even as high as 3 percent.

Assuming the service fee is increased from ⅜ of 1 percent to 2 percent or 3 percent, compare the results with FNMA yield rates as quoted 4–5–83 of 13.15 percent:

	Standard FHA 12 percent mortgage with ⅜ of 1 percent service fee	Indian FHA 12 percent mortgage with 2 percent service fee	Indian FHA 12 percent mortgage with 3 percent service fee
Principal	$15,000	$15,000	$15,000
Yield (percent) [1]	13.150	14.775	15.775
Discount [1]	93.24	84.80	80.17
Discount in dollars	$13,986	$12,720	$12,025
Amount paid by borrower	$1,014	$2,280	$2,975

[1] Yield rates and discounts source are from "Mortgage Yield and Amortization Tables FNMA Method", Financial Publishing Company, Publication No. 659, January, 1983.

As can be seen, an Indian would have to pay at least twice to almost three times the amount to obtain an FHA loan as any other FHA borrower.

However, the major drawback is that these loans with higher servicing fees would be less marketable in that any assignment of servicing fees would be at a rate of ⅜ of 1 percent with the discount attributable to the increase in the service fee not transferrable.

The ultimate result is a "Catch 22" situation:

1. FHA mortgages can't be issued with a service fee of ⅜ of 1 percent.
2. FHA mortgages with a higher servicing fee are not subject to the secondary markets.

The above is even further compounded by the fear of adequate judicial relief in Tribal Courts.

Another concern that is less serious than above but is nevertheless germane to the problems, is that mortgages bought by FNMA and GNMA are done in increments of not less than $1,000,000. Thus, it would take 67 mortgages at $15,000 each as opposed to 20 mortgages at $50,000 before one could sell to the secondary markets. A lender would have to hold these in his portfolio until such time he had accumulated sufficient volume.

H.R. 1928 and 5856 do not have the flaws mentioned above. Those families who would qualify for the writedown, coupled with the $15,000 FHA mortgage, would be served under Title II of the Act.

Mortgages guaranteed under Title III would be sufficiently large enough that ⅜ of 1 percent servicing fee would be adequate. The lenders' raw cost is the same in servicing a $15,000 mortgage as it would be for a $50,000 mortgage.

There has been testimony by DHUD that mortgages guaranteed under Title III are not subject to the secondary markets. This simply is untrue.

Since the mortgages under Title III are at conventional interest rates and the servicing fee is not a problem, a family would not pay any higher discounts than are charged other borrowers of like amounts in this country.

In summary, the only feasible means developed to date in attracting private capital for housing on reservations, is Title III of H.R. 1928 and S. 856.

Mr. ALEXANDER. We have a few questions. With respect to S. 644, were any of your organizations, or you, in your individuals capacities, consulted in the drafting of that bill?

Mr. YOUNG. Over the past few months—and this is set forth in my letter, by the way, that I submitted for the record to Mr. Abrams on April 18—over the past 6, 7, or 8 months the National American Indian Housing Council has come to Washington concerned about the termination of the Indian housing program by HUD. We have, on different occasions, met, or attempted to meet, with representatives of the Department of Housing and Urban Development. We have asked them to tell us what they are doing. They have come in, on a few occasions, and told us grand ideas that they are going to do for the little Indian people.

They came to a meeting on February 10 in Arlington, Va., and told us about their ideas of the FHA loan insurance and what not. Unbeknownst to them, the board members have copies of their proposal under Secretary Pierce's signature that they had already sent to OMB. They did not have the courtesy, or they were not truthful enough, to tell us that they had already sent this proposal to OMB under the Secretary's signature.

In this proposal, Mr. Chairman, they cut out the State of Alaska, and they cut out the State of Oklahoma, and they allowed for the Indian nation of tribal lands and the attachment of tribal assets. They also had a provision in there whereby due process would be denied by going around tribal courts. You know how important, Mr. Chairman, our tribal courts are to us.

Mr. ALEXANDER. Mr. Martin, what was the nature of consultation with NTCA?

Mr. MARTIN. We have not really had any consultation, although we have had for the past 2 years tried to work with HUD, and we have requested meetings with them, and we have come to various conferences. Yes. The few times those kinds of relationships did come, it was not to start a plan for Indian housing.

As a matter of fact, we had a meeting with the Secretary one time along with several of the people here. There were invited tribal leaders from throughout the country, representing national organizations. We did have a good meeting with the Secretary. I told him that if we had had a meeting like this with you 2 years ago we probably would be doing differently than what we are talking about now. We probably would have a good Indian housing program in place.

He agreed to meet with us again. That was in December. He said he would meet with us again in January. So we waited, and January came along, and we heard nothing. Our executive secretary has been doing some followup on that, but there have been no meetings or no interest shown.

In a nutshell, we have not have any real consultation on Indian housing with HUD.

Mr. ALEXANDER. Thank you.

Mr. Andrade?

Mr. ANDRADE. I will make my comments brief. Let me clarify. There have been no consultations in terms of our having a chance to review the bill or review any kind of legislative initiative. I want to make sure that HUD does not counter and say that we have met. Yes, we have met.

As Mr. Martin said, he met, along with our president, with the Secretary, but that was not a legislative meeting. There were no legislative things talked about. Those were general open sessions where we just discussed Indian affairs. I do not want it said here in hearings or anywhere else on the Hill that we had a formal discussion of the legislative initiatives. There were none. Those were just simple meetings.

Mr. ALEXANDER. Thank you, gentlemen.

Our next witnesses are Gilbert Pena and Darrell Wadena. Mr. Pena is vice chairman of the All Indian Pueblo Council, and Mr. Wadena is president of the Minnesota Chippewa Tribe.

STATEMENT OF GILBERT PENA, VICE CHAIRMAN, ALL INDIAN PUEBLO COUNCIL, ALBUQUERQUE, N. MEX., ACCOMPANIED BY DAVID PEREZ, EXECUTIVE DIRECTOR, NORTHERN PUEBLOS HOUSING AUTHORITY

Mr. PENA. Mr. Chairman, my name is Gilbert Pena. I am the vice chairman of the All Indian Pueblo Council, which is composed of 19 Indian Pueblos in the State of New Mexico. With me today is David Perez, executive director of the Northern Pueblos Housing Authority.

In the audience are Gov. Paul Chinana from the Pueblo of Jemez, Gov. Benny Salas from the Pueblo of Zia, and the Lieutenant Governor of the Pueblo Zia, Mr. Gachupin.

Mr. Chairman, on behalf of the All Indian Pueblo Council, I would like to commend you and members of this committee for being concerned and offering Indian country an alternative for Indian housing.

As all of you know, the administration is set on terminating Indians from the national housing program. It is unfortunate that, since the enactment of that program, we were the last to be deemed eligible for that program, and now we are the first to be terminated from it.

Mr. Chairman, we do have some concerns on Senate bill 856, primarily, as the other panel members have stated, in the area of trust funds. We strongly oppose the attachment of individual or tribal trust funds as specified in S. 856. To this day we are unaware of any other legislation or unit of government that subjects tribes to this type of penalty.

We also realize that the Federal Government must protect its interests. Therefore, we recommend a very delicate alternative, that those tribes which do receive Federal funds, through grants or contracts, be penalized in this area if they do not meet their obligations. However, those Federal funds that protect or litigate trust responsibilities should not be subject to this type of penalization.

In fact, this practice is to occur in the community development block grant program presently administered by HUD in that, in 1984, they are proposing that those tribes that do submit applications for community development block grants will be penalized, or perhaps applications will not even be considered simply because staff neglected their responsibility in enforcing the eviction policies that are established by the local housing authorities.

In section 207, Mr. Chairman, the submittal of final plans and specifications, the bill calls for a 120-day period before approval of plans submitted by a tribe. It is our recommendation that the Secretary approve plans and specifications no later than 30 days after submitted by a tribe or Indian housing authority. This would avoid the ever increasing costs of construction and labor.

In addition, the Secretary should also authorize the use of existing plans and specifications by one housing authority for use by another housing authority.

Mr. Chairman, one of the things that the bill calls for is a 90-percent collection record. We think this is very unrealistic. The economic predicament and unemployment of a given geographic area should be considered.

In addition, Mr. Chairman, should S. 856 be enacted and the housing program fall under the Department of Interior or the BIA, we recommend that an Indian housing board comprised of Indian representatives, who are well versed in the housing problems in Indian country, be created to set policy and advise the Office of Indian housing programs.

In closing, Mr. Chairman, we are concerned about the timeframe regarding the transition of Indian housing to the Department of Interior. We would like to recommend a 2-year transition period so that the local housing authorities can clear the pipeline, so to speak, on which HUD claims they have a backlog. By that time, hopefully, we will not be faced with a situation where we have the enactment of a law, but yet 2 or 3 years later we are waiting for regulations and policies that govern the creation of housing on Indian reservations.

Lastly, Mr. Chairman, we are very concerned about the funds to be appropriated under this Act. No. 1, they are not sufficient. No. 2, is that funds appropriated under this Act should not be subject to the zero-based budgeting procedure. Such appropriations should be strictly earmarked for Indian housing.

With that, Mr. Chairman, I would be happy to answer any questions you may have, and I want to thank you for giving us this opportunity.

Mr. ALEXANDER. Thank you. Without objection, a copy of your entire prepared statement will be inserted in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF GILBERT M. PENA, VICE CHAIRMAN, ALL INDIAN PUEBLO COUNCIL

Mr. Chairman and members of the Senate Select Committee on Indian Affairs, my name is Gilbert Pena and I am the Vice-Chairman of the All Indian Pueblo Council. The All Indian Pueblo Council is composed of nineteen Pueblos; Acoma, Cochiti, Jemez, Laguna, Nambe, Picuris, Pojoaque, San Felipe, Sandia, San Ildefonso, Santa Clara, San Juan, Santa Ana, Santo Domingo, Taos, Tesuque,

23-603 O - 83 - 5

Zia, Isleta, and Zuni. Today I am accompanied by Governor Paul Chinana of Jemez Pueblo, Governor Benny Salas of Zia Pubelo, and Governor Jay Mountain of San Ildefonso Pueblo. Also accompanying us is Mr. David Perez, Executive Director of Northern Pueblos Housing Authority and Mr. Celestino Gachupin, Lieutenant Governor of Zia Pueblo and Commissioner of the All Indian Pueblo Housing Authority. I am confident that the Committee will allow these gentlemen to comment or answer any questions you may have.

Mr. Chairman, on behalf of the All Indian Pueblo Council, I would like to commend you and the members of this Committee for being concerned and offering Indian Country an alternative to the present Housing and Urban Development (HUD) Indian Housing Program. As all of you know, the Administration is adamant about terminating this vital and needed program. It is unfortunate that in 1937, Congress enacted legislation which would provide safe and adequate housing for its citizens. It was not until the mid-1960's that Indian Tribes were given the opportunity to participate in the program. Because of bureaucratic "red tape" and the lack of delegation of authorities, Indian housing was backed up in the pipeline and deemed too costly.

After full analysis and consultation with the Indian Housing Authorities in our communities, we support your faithful commitment in offering an alternative to Indian housing. The following represents our recommendations on S.B. 856:

Section 3: (1) Adjusted Family Income—We support the deductions outlined; further, we recommend that other deductions presently allowed by HUD also be included; such as child care, unusual occupational expenses, etc.

(2) Minimum Standards—Should S.B. 856 become law, then the Tribes would be required to assume administrative and financial responsibilities. Therefore, we request the Tribes be allowed to determine the standards that would provide adequate housing and design to fit into the Pueblo architecture and culture. Pueblo Indian families have, for many years, lived in homes constructed of adobe and other native products. We recommend that we be allowed the usage of native products in the construction of homes.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

Basically, this program component is an expansion of the Bureau of Indian Affairs Home Improvement Program to include new construction. The funding has to be adequate in order to make this program workable.

Section 101(c)(3): Presently, there are two multi-tribal agencies that provide Bureau of Indian Affairs home improvement services. The services that are provided are minimal at best. We recommend direct funding to those Pueblos that have their own work force or Tribal Enterprises to perform repairs and renovations.

Section 105—Appropriations: We recommend a budget authority of $100,000,000 to fully meet the needs of new and renovated housing.

TITLE II—INDIAN HOUSING FINANCE FUND

Section 205(1)(2):—Attachment of Trust Funds—We strongly oppose the attachment of individual or tribal trust funds as specified in S.B. 856. To this day, we are unaware of any other legislation or unit of government that subjects tribes to this type of penalty. We also realize that the Federal Government must protect its interests, therefore, we recommend the following as alternatives to the attachment of trust funds.

(1) That those tribes that do no receive federal funds through grants or contracts, be penalized in this area if they do not meet their obligations. However, those federal funds that protect or litigate trust responsibilities should not be subject to penalization. This practice is to occur in the Community Development Block Grant (CDBG) Program in that, in 1984, those tribes that apply for CDBG funds will be penalized or not be considered for funding if the tribe has not been responsive in its responsibility to the present HUD housing program. This responsibility is primarily in the areas of eviction and delinquent accounts.

(2) That the tribes strongly support and enforce the Indian Housing Authority in their eviction policies and procedures. The Secretary of the Department should intervene if there is negative cooperation from the tribe.

Section 207: Submittal of Final Plans Specifications—It is our recommendation that the Secretary approve plans and specifications no later than thirty days

after submittal by a Tribe of an Indian Housing Authority. This would avoid the ever increasing costs of construction and labor. In addition, the Secretary should approve plans that may exist in one Indian Housing Authority for use by another Indian Housing Authority.

Section 209(b)(c)—The computation of monthly payments is too high and should be subject to the existing economic situation of a particular area. Subsidies should be granted and allowed to senior citizens and the handicapped. Many times these individuals are on a fixed income.

Section 211(c)—The economic predicament and unemployment rate of a given geographic area should be considered. The ninety percent collection record is unrealistic and should be subject to waivers by the Secretary.

Section 212(b)—The Indian Health Service s responsibility should be limited in the areas of adequate and safe water and sewer systems to housing that would be created under this legislation. Adequate construction inspections should be the responsibility of the tribe or housing authority.

TITLE III—INDIAN HOUSING LOAN GUARANTY FUND

(1) There is a definite need for a loan guaranty to meet the housing needs of those Indian families that may afford to take advantage of such a program. At the present time, most lending institutions are reluctant to do so because of the legal status of trust lands.

(2) Consideration should be given to the provision of this Title that would subsidize the monthly payments required of a family. At the present prototype costs not including the cost of land, the monthly payments could be in excess of $900. This represents a substantial gap between the payment obligations of a Title II participant and the Title III participant.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401(a)—We recommend that an Indian Housing Board comprised of Indian representatives be created to set policy and advise the Office of Indian Housing Programs.

Section 401(b)—It is our recommendation that all possible authorities be delegated to the respective Area Director within the Bureau of Indian Affairs and Indian Housing Authorities. The lack of the delegation of authorities under the present HUD program has created the bureaucratic red tape that has attributed to the high cost of Indian housing.

Section 401(c)—Funds appropriated under this Act should not be subject to the Zero Base Budgeting procedures. Such appropriations should be strictly earmarked for the Indian Housing Program.

Section 404(a)—Any access roads constructed for the purposes of accessibility to housing created under this legislation should be maintained to the specifications of existing tribal codes or requirements.

Mr. Chairman and members of the Committee, we are concerned about the time frame regarding the transition of Indian Housing to the Department of Interior. We would like to recommend a two-year transition period so that tribes will not be jeopardized in meeting their housing needs.

In closing, Mr. Chairman and members of the Committee, thank you for giving us this opportunity to render our concerns and recommendations on S.B. 856.

Mr. ALEXANDER. We will hear from Mr. Wadena next, and then we will have some questions.

STATEMENT OF DARRELL WADENA, PRESIDENT, THE MINNESOTA CHIPPEWA TRIBE, CASS LAKE, MINN.

Mr. WADENA. Mr. Chairman and members of the committee, my name is Darrell Wadena. I am president of the Minnesota Chippewa Tribe, comprised of six distinct bands: the White Earth, Leech Lake, Nett Lake, Fond Du Lac, Grand Portage, and Mille Lacs, with a total population in excess of 34,000.

The concept of providing for Indian housing through a mechanism other than the Department of Housing and Urban Development has merit and is supported by the Minnesota Chippewa Tribe. We do have some concern for certain areas of the bill and hope for your consideration in amendments to these areas.

It is apparent that the administration efforts to eliminate public housing as it now exists is going to be achieved. It is also our position that the alternative for Indian housing being offered by the administration in H.R. 1901 and S. 644, through block grants combined with the Federal Housing Administration guaranteed loans, cannot succeed. We believe this effort is aimed at terminating the United States responsibility to provide decent housing for Indian people.

We request your consideration of the following. The first and most significant of our concerns relates to section 205 of title II where the Secretary is empowered to attach any unobligated funds held by the United States for the benefit of any Indian or Indian tribe. We recommend deletion of this section. I guess what we are saying here is, do not put any more restrictions on Indians than you do on any other community that is served by housing.

The U.S. Government, in fulfilling the legal trust responsibility owing to Indians, should be able to adequately house Indian people without imposing this restriction. To make this bill acceptable to tribal governments, section 205 of title II with its supporting sections 209 (4) and 211(3) must be stricken. It is our belief that there are sufficient safeguards within this bill to assure the program integrity.

Second, we also question the administrative capability of the Bureau of Indian Affairs to develop and implement a program of this magnitude and are continuously confronted with their inability to effectively administer its programs.

It is our belief that if this measure is enacted into law the Bureau of Indian Affairs could not develop the staffing capability anywhere near that of existing Office of Housing programs within the Department of Housing and Urban Development; and, if history repeats itself, as is often the case in the Bureau of Indian Affairs, we will never achieve the delivery and management capabilities that we currently enjoy with the HUD staff.

What we recommend is that possibly some of the HUD people be folded into this program; some of the experts that they have. Since the breaking away of the Indian portion of HUD, tribes in our area have developed a positive relationship with the Chicago office, and for the first time in years, they have been able to get some programs going that they could not when they were with the area office. It used to be a horrendous agency to deal with in itself until the Indian portion was broken away. It seems to have a better track record since that time.

Mr. Chairman, the committee has a priceless opportunity through the proposed measure to shape an organization that is characterized by minimal staffing and bureaucratic procedures but will also insure the delivery of decent housing to the Indian community in a timely manner.

We are hopeful the committee will accept our suggested amendment concerning attachment of trust funds and that you will further under-

take steps, either through statutory or report language, to implement our recommendations on administration.

We appreciate the opportunity to testify on this vital Indian housing measure.

Mr. ALEXANDER. Thank you.

Mr. Pena, just to clarify your testimony a bit, what is the nature of this advisory group that you are proposing be established to aid the Bureau in its new housing responsibilities?

Mr. PENA. I think like any other thing, Mr. Chairman, that it is administered by the Government. Whether it be in education, I think it is always important to have the input of those people who are going to be affected by the services that they are going to consume. I think essentially, with the present progam under HUD, a lot of times Indian tribes are not even consulted.

A good example of that is that the administration has consistently stressed economic development and self-sufficiency. We have created some enterprises on Indian reservations which would generate economic development and self-sufficiency. An example of that is the recent policy submitted by HUD to those housing authorities that outline criteria for those housing authorities that want to seek independent insurance coverage.

There are some criteria that some housing authorities cannot meet. On the other hand, they would be almost forced to be under national policy. These types of things, I think, are important that there be tribal input so that they can advise and set policy, perhaps even be involved in delegating different authorities down to the local housing authorities or tribes.

My personal feeling, Mr. Chairman, is that present Indian housing is deemed too expensive simply because of the bureaucratic redtape and the lack of delegation of those types of authorities.

Mr. ALEXANDER. Your colleague on the panel, Mr. Wadena, expressed some concern with the Bureau being able to handle its responsibilities in the housing area. Do you have a similar concern?

Mr. PENA. I think right now, Mr. Chairman, we do not have too many alternatives. I think the administration does not want us. HUD does not want us. So what do we have? I think we have to make do with what we can. It is our understanding that S. 644 is to be considered. I think that if S. 644 is enacted then the administration has really succeeded in terminating Indians from the housing program.

I will venture tosay that there is not one American Indian tribe that would take part in, or even apply for a program as outlined in S. 644. We were also apprised yesterday, Mr. Chairman, that there is a compromise proposal which we are not prepared to comment on at this time. However, we would like to analyze it and consult with our tribal leadership on it.

Mr. ALEXANDER. Thank you.

Mr. Wadena, one of the unit costs that we have heard proposed by HUD is a $35,000 per unit figure. Is that a realistic figure in your area of the country?

Mr. WADENA. That could be realistic. The thing that I think that drags up the costs, or the prototype unit costs, is you have architects

23-603 O - 83 - 6

involved in drafting or drawing up the plans. They get paid on a percentage basis, for example, 8 percent of the total contract. Well, the higher they can get that price up, the bigger the cut they are going to get. So, if you can eliminate that process, I think you can build a house for $35,000.

We have presently, in Minnesota, a home loan program. It has been in effect for several years now. I think it has been 6 years. Up until 3 years ago our average home cost was $27,500.

Mr. ALEXANDER. Does the same apply for New Mexico?

Mr. PENA. I would like to refer that question to the executive director, Mr. Chairman, if I may.

Mr. PEREZ. I think, Mr. Chairman, that a $35,000 home can be built considering, I guess, the architect's fees and allowing the housing authorities to use other housing authorities' floor plans, allowing us to use our own materials such as adobe. Basically, a home could be built for $35,000.

Mr. ALEXANDER. Thank you, gentlemen.

We are going to take a 5-minute recess.

Senator MELCHER [acting chairman]. The hearing will come to order.

We will have the statement of Senator Murkowski read into the record at this point.

STATEMENT OF FRANK MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA, READ BY MR. MARK WOELBER, STAFF ATTORNEY, SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. WOEBLER [reading]. Mr. Chairman, adequate housing for Alaska's Native population continues to be a matter of great concern to all Alaskans. Traditionally, housing construction and rehabilitation for native Alaskans have been managed jointly by the Departments of Housing and Urban Development, Interior, and Health and Human Services. Unfortunately, this arrangement has not always worked well for the intended beneficiaries.

A recent Bureau of Indian Affairs report indicates that, of nearly 14,000 native housing units in Alaska, well over half are in substandard condition. Many of these units will have to be completely rebuilt. In addition, nearly 2,000 new houses must be constructed in order to accommodate Native families throughout the State.

There are a variety of reasons why the present Indian housing program has not worked in Alaska. One reason has been that the three Federal departments often work at cross purposes. For example, there have been instances in which the Department of Health and Human Services has approved construction of water and sewer lines for new housing, only to have the work delayed because other requirements imposed by the Department of Housing and Urban Development were not met. This sort of situation, which is caused not so much by deliberate noncooperation as by excessive bureaucracy, results in unnecessary delay and hardship for those who need housing.

Even without the bureaucratic foulups, climatic conditions in remote areas of the interior and northern coast necessitate extra care in the coordination of construction planning for Alaska's natives. The

construction season is very short, and key phases of construction are totally dependent on weather conditions.

Then, too, planners have to consider the obstacles associated just with getting construction materials to the building sites. Few roads link villages to the rest of the State so that materials often have to be shipped by barge to villages whose harbors are ice free only a couple of months of the year.

What this means is that a high level of coordination must be maintained among all parties to the project. Should only part of the building supplies for a project be delivered before freeze-up, a precious year could be lost waiting for the balance of the materials to arrive.

I believe coordination of these Alaskan projects would be vastly improved by consolidation of the Indian housing program in one Government office. The Office of Indian Programs, established by title IV of S. 856, is intended to serve this purpose.

Finally, I would note that it is not true, as some apparently believe, that private mortgage financing for Alaskan Natives is readily available. On the contrary, it is practically nonexistent, and for many of the same reasons that make such financing difficult to obtain by other Native Americans.

Under the current system, private lenders are often reluctant to extend credit for home construction to Alaska Natives due to uncertainty as to ownership and future status of their lands. The Alaska Native Claims Settlement Act has only added to the confusion regarding the status of Alaska Native lands.

In this regard, I am optimistic that the Federal loan guaranty provisions of S. 856 will provide an alternative means of financing home construction.

In closing, Mr. Chairman, I would like to thank the distinguished Senator from Mississippi, Mr. Cochran, and his staff for their diligent efforts in devising a creative solution to this serious problem. I am confident that, with the benefit of today's testimony, this committee will be able to report a bill that will successfully address the needs of all Native Americans for adequate housing.

Thank you, Mr. Chairman.

Senator MELCHER. Thank you very much. That was a very good statement.

Mr. Mitchell?

STATEMENT OF DON MITCHELL, GENERAL COUNSEL, ALASKA FEDERATION OF NATIVES, INC., ANCHORAGE, ALASKA, ACCOMPANIED BY JANIE LEASK, PRESIDENT, ALASKA FEDERATION OF NATIVES, INC.

Mr. MITCHELL. Thank you, Mr. Chairman. My name is Donald Mitchell. I am representing the Alaska Federation of Natives this afternoon and with me is Ms. Janie Leask, the president of the Alaska Federation of Natives. Ms. Leask has submitted a written statement for the record, and I would respectfully request that it be printed in the record in full. I will attempt to summarize it briefly.

Senator MELCHER. Without objection, a copy of Ms. Leask's entire prepared statement will be inserted in the record.

Mr. MITCHELL. At the outset I would like to commend the committee on behalf of the Alaska Federation of Natives for the effort that it has made to address the issue of, not only Indian housing in lower 48, but also Alaskan Native housing in our State. It is obviously a difficult, complicated, logistically overwhelming task. That effort is very much appreciated.

With respect to the Alaskan situation, I think it would be helpful at the outset to reiterate something I know that committees of Congress have been faced with time and time again—the geographic, political, historical conditions in Alaska which require that particular sensitivity be brought to bear in designing programs for Alaska Natives. The situation is very unique.

Native Alaska is approximately 200 rural native villages located along the coastline of Alaska or along one of our major river systems. The villages are not connected by roads to any of the urban areas. The logistical challenge of even communicating with these communities is overwhelming. The coordination of labor and materials for housing programs is a very complicated task. It is a task that can only be accomplished in some kind of coordinated fashion.

I know that the administration has talked about attracting more private financing into native villages in Alaska. It just will not work because the logistics that are involved in attempting to assemble the kinds of resources that you need to address village problems cannot be overcome on a unit by unit basis, even if financing is available—which it is not.

The need for an Alaska Native housing program has been demonstrated time and time again. The most recent statistics available from the Bureau of Indian Affairs indicate that there are 4,900 homes in Alaska Native villages that just need to be bulldozed. They are not fit for human habitation. They need to be replaced. They cannot be improved. They cannot be rehabilitated. They need to be destroyed and something with some human dignity associated with it constructed to take their place.

We have 2,700 homes that are in desperate need of renovation. We have tried to address that issue through the HIP program in the past. It is a task that is ongoing. We have an additional 6,700 homes in native villages that are in substandard condition and must be dealt with at some point.

With that, Mr. Chairman, I would like to make some specific comments on the bill now being considered by the committee.

With respect to the definition section, I would like to commend NCAI for pointing out that there are some technical problems with respect to including Alaska Natives within the purview of the term "Indian". I think that NCAI's suggestion that the term "Native" in the Alaska Native Claim Settlement Act be referenced is a good one. I think it would solve the problem.

There is also some attention that needs to be given to the definition of tribe and to the definition of tribal housing agency to reflect the unique situation in Alaska. The 12 native regional nonprofit associations and some individual villages are 638 contractors for HIP program funds. Regional native housing authorities are a derivative of the nonprofit native associations which administer the HUD mutual

help program. The definitions in the bill should reflect this unique situation.

With respect to title I, as I understand it, it is a codification of the HIP program. All native groups in Alaska have had a very positive experience with the HIP program. It has been a major contributor to the improvement of native housing in the bush.

In fiscal year 1982, over 280 village housing units were improved and 55 new units were built through the HIP program. The native regional nonprofit associations are very active in contracting to deliver that program to their constituents and consequently are very interested in it continuing.

With respect to title III: Title III addresses the situation of Alaska Natives living in rural communities who could otherwise afford to finance acceptable standard housing if in fact they were in an area of the State where the private lending industry was interested in providing financing. Obtaining financing is a serious problem in the bush, but unfortunately the way title III is drafted it references obtaining financing solely for housing constructed on trust lands. There is considerable trust acreage in Alaska. There are 6,000 to 8,000 native allotments. Also, there are restricted lots in native town sites in some villages.

However, there is a great housing need for exactly the same kind of program next door to allotments and restricted lots. Because of the unique factual pattern with respect to land ownership, because of the Alaska Native Claim Settlement Act, a native village may include some restricted property, some trust property, and some property in fee. The financing dilemma for an Alaska native living in a village is exactly the same whether he received his lot through section 14(c) of the Alaska Native Claims Settlement Act, through the Native Town Site Act, or the Native Allotment Act.

With respect to title II, I cannot report to the committee a consensus from the Alaska Native community at this time. The Association of Village Council Presidents, which runs the largest nature housing authority in Alaska which provides housing in over 56 Yup'ik Eskimo villages on the western coast, is very strongly in support of title II. AVCP thinks that the Bureau can do a significantly better job administering a native housing program in Alaska than HUD.

The Tlingit and Haida Central Council, which represents Alaska Natives in southeast Alaska, has had a more positive experience with HUD. Their recommendation is that the existing HUD program be retained.

However, I have attempted to poll all of the native groups in Alaska that have an interest in the housing issue, and I think that I do have a concensus for the committee that, if in fact the existing HUD program is not a feasible—a politically feasible possibility—then all groups with whom I have talked are in favor of title II of the legislation now before us.

Assuming that the choice is either the administration proposal in some form or title II of this legislation, then all Alaska Native groups interested in housing in our State are in favor of title II.

With respect to title II, the one last comment I have on a subject about which there has been considerable discussion, both informally

the last couple of weeks and during the hearing in the House this morning and here this afternoon, relates to the attachment provisions of section 205.

Section 205 in Alaska is a somewhat academic issue because of Alaska's unique situation. There are no tribal trust funds in Alaska so none can be made available through section 205.

Since 205(d) prohibits the Secretary from restricting access to the title II program because of a lack of tribal trust funds, the section does not affect Alaska.

But, I would like to point out, although section 205 does not affect Alaska and I think that it might be helpful in terms of dealing with this problem to note that to date the discussion I have heard on the subject has been a one-way street. What is going to be done with tribes or with Alaska Indian housing authorities or native regional nonprofit associations which either lack the will or lack the administrative expertise to meet their financial responsibilities?

If individual families simply cannot afford to make their house payment, and the housing authority does not get the money it needs it obviously cannot meet its responsibilities. If that is the case there is a problem with the structure of the program. It costs, particularly in Alaska, an incredible amount of money to build a house. The two most exclusive Yup'ik Eskimo census districts in Alaska are two of the 10 poorest census districts in the United States of America. It is not feasible to expect that native families in those communities are going to be able to finance housing at the same level as Alaskans who live in an urban situation.

If that is the problem, then it should be addressed as such and, I think that there are provisions in this bill with respect to the minimum payment and the percentage of adjusted income that will go a long way toward realistically addressing the issue of the financial plight of individual native families.

The other issue is, of course, a situation in which enough money is coming in to the housing authority, but for some reason the housing authority is not meeting its responsibilities.

But, I would point out that as part of their application each tribe or each tribal housing agency must submit a plan for dealing with the payment issue. The plan must be reviewed by the Bureau before there is a decision made to get a particular tribe or a particular housing agency involved in the program.

I think that if there is some attention and some active concern on the part of the people who will be administering this program the problem will diminish. If they look at the group of human beings who have submitted a plan and look at their track record historically with respect to administering other programs, and if they look at the amount of assets the tribe or agency will have available for administration, they should be able to identify potential problems before they advise. If they do, the tribe should be given some technical assistance. There should be a realistic plan worked out for dealing with the payment issue before a program is approved.

I think that if the payment issue is approached in that manner there should not be any need for attaching anyone's trust funds. Section 205 as drafted is overkill. If it is ever used it means that all

parties have failed at the outset to design a program that works and ends up benefiting the people whose situation caused Congress to enact and fund the program to begin with. I think that that would be a much more positive way to approach an admittedly difficult issue than the raising of a hammer over the head of Indian country to compel an Indian housing agency to meet its financial responsibilities.

My last comment, Mr. Chairman, is that with respect to the issue of paying residual receipts at a level of 90 percent and the timeframes for doing so simply are not realistic in rural Alaska. Most of the housing authorities are based in our satellite communities such as Bethel or Barrow. They are difficult places to communicate with and the housing authorities have their own problems communicating with their own villages. If there is a problem in a village, it may take a month to find out what is going on. It is just not realistic to expect that level of payment and that quick a turnaround time from a native housing authority.

Perhaps a series of triggers could be included in the bill that would start putting people on the alert at 90 percent and maybe certain other things could happen if payments fall lower than that. A realistic timeframe would improve the workability of the program and eliminate some problems before they begin.

With that, Mr. Chairman, I would again like to express my appreciation for the opportunity to express the views of the Alaska Federation on this important legislation. AFN looks forward to working closely with your staff and the staffs of the other relevant committees of the Congress to develop a housing program that will benefit the people who are most in need of benefiting from it.

Thank you.

Senator MELCHER. Thank you very much, Mr. Mitchell. Are you cognizant of what the administration is proposing on housing for Indians?

Mr. MITCHELL. Mr. Chairman, I have not seen nor had an opportunity to review the so-called compromise proposal that I understand has been developed in recent days. I am familiar with what was originally proposed by the administration to the HUD committee, and I am generally familiar with what has occurred in that committee to date.

Senator MELCHER. Well, as proposed, would it include Indian housing for Alaska Natives?

Mr. MITCHELL. There is a certain cynicism about the approach of the administration in that regard, Mr. Chairman. A simple answer is, no, it would not. The Alaska Federation of Natives board of directors became involved in this issue when the native housing authorities made a presentation at their last meeting complaining—no, not complaining—screaming about the HUD approach.

Prior to that time, the AFN Board had left the development of housing policy and advocacy for a workable native housing policy to the housing authorities, but it was the concern of the board about the HUD proposal that has led to AFN's testimony here today.

Senator MELCHER. The written statement that was submitted and what you have been speaking about in summarizing your written testimony is really on S. 856, is it not?

Mr. MITCHELL. Yes, it is.

Senator MELCHER. S. 856 is an identical bill to the Udall bill, H.R. 1928, which was introduced on March 3 in the House. S. 856 was introduced on March 18 and is identical to H.R. 1928 except for section 408.

Now, section 408 of H.R. 1928 deals with the requirements for contractors or subcontractors in titles I and II to bid on the job with the idea of paying the prevailing wage of the community. S. 853 has deleted that. It runs the same up to section 407 and then drops the last section. What is your position in Alaska on paying the prevailing wage in the community for housing?

Mr. MITCHELL. Mr. Chairman, in anticipation of that very question, after I arrived in Washington, D.C., I attempted to poll the native housing authorities and the board of the Alaska Federation of Natives on that very question. I have not yet received the results of that poll. However, I will submit the results in writing, and hopefully I will be able to do that in time to include AFN's views as part of the record.

Senator MELCHER. Without objection, the record will be help open to receive that information.[1]

Mr. MITCHELL. I would say that as a personal matter and speaking only from my experience in rural Alaska and in dealing with a variety of nonhousing programs, it is a very close question whether the Davis-Bacon Act should apply to Alaska Native housing programs.

There are two policy considerations. One is that all human beings, native and nonnative, and particularly native, are entitled to be paid a fair wage for their labors. Certainly that is what Davis-Bacon was designed to insure for the American worker. I think that Native people who live in villages, who hopefully will be participating in the construction of some of these units, are certainly as entitled to and as in need of the dignity of a decent wage as any other American.

On the other hand, there is no question that Davis-Bacon requirements certainly add to the unit cost of housing, particularly in a place as terribly expensive to do business as rural Alaska. What an individual village or an individual regional native organization might want to do with respect to those tradeoffs, I do not know. They may want to lower the wage rate for village residents in order to build more houses for the same residents.

Senator MELCHER. How would they provide wage earners from the community at lower than the community price?

Mr. MITCHELL. It has to do with what the community is, Mr. Chairman. One of the things happening in Alaska is that there is a lot of new construction going on in the bush. There are rural schools being constructed, for example, and other State funded, nonnative construction projects. The labor for those projects is coming out of Anchorage and Fairbanks and is being imported into native villages. That fact is more than a little ironic because the workers who live in those communities have no economic base of their own other than commercial fishing in some areas.

As I mentioned earlier, many native villages are in some of the poorest census districts in the United States of America. Nevertheless, when there are jobs, those jobs are being filled by people from outside

[1] Not received at time of printing.

the local community. I think that, given the opportunity to earn $35 an hour, pounding nails like someone flown up from Seattle at great expense, or earning $20 an hour so that the village can build two or three more units of housing for people who live in a very close knit community, I think that that is a very serious tradeoff that I would expect both village residents and the housing authorities to look at very seriously.

Senator MELCHER. Are you saying that in Fairbanks, the requirement of paying at least the prevailing wage in that area would be established on the basis of whatever it is in Anchorage?

Mr. MITCHELL. No; I am saying that in Fairbanks most of the labor that is going on, with respect to construction projects in Fairbanks, is coming out of Fairbanks. So, obviously everyone who is in Fairbanks makes the same wage.

If you take a community such as Kwigillingok or Kasigluk or Selawik or Kaktouik—Kaktouik is on the North Slope; Selawik is in northwest Alaska.

Senator MELCHER. Well, you are saying that on the North Slope the prevailing wage in the community would be determined by Fairbanks.

Mr. MITCHELL. Yes; or Seattle.

Senator MELCHER. I would suggest that you ask the Department of Labor to establish the prevailing wage in a community because I think there is too much hot air being blown around about what community is and what Davis-Bacon is. Davis-Bacon, rather than establishing Seattle or Anchorage as the basis for determining the prevailing wage in the community, is not the case at all, at Prudeau.

I would also suggest that probably, to get some contractors to bid on housing at Prudeau, they are going to pay a higher wage than what you would expect and what you have been telling me, because I do not think it is very easy to get a contractor to bid a Prudeau, and I do not think it is very easy to get the kinds of help that they are going to demand at Prudeau.

I think that also there is a misconception here, and I think that the misconception is working disadvantageously for quality housing. I do not think that that is probably wrong with quality housing in Indian housing. I think what is wrong with quality housing in Indian housing is that there are too many contractors who have cut corners on it.

I am not going to speak for Alaska because I do not know the situation there, but I am going to speak for the area that I know. There has been too much cutting corners, shoddy performance. However, it has not been Davis-Bacon. If they would rigidly enforce Davis-Bacon, we might have better quality housing on all the units that have been built so far. We get so much rambling around in these bills. The only reason that I can see for dropping Davis-Bacon protection out of this Senate bill and the House bill is just the ideas that you have been mentioning; mostly the labor part of the housing in the units of this size and this amount of money probably runs about 18 percent, maybe around 16 percent. So, the cost of the house, when you start talking about how you can save money on it. I do not think you can save money by amateurs doing it, or not having people who really know their business.

However, at least if there is some problem in Alaska with the Department of Labor not establishing what the prevailing wage is in the area, then I think this committee should be advised because we are interested in Indian housing and we are interested also in the Department of Labor doing their job. They are the ones who are going to have to do that, and they have to establish that. If they are taking Seattle as a base, they probably have to have a plethora of transportation and away from home pay and all that. It is unworkable.

Mr. MITCHELL. Mr. Chairman, first of all, to clarify what I said earlier, the Davis-Bacon Act represents a public policy decision that the Congress made many years ago that has a very sound basis.

My point is that the unique conditions in Alaskan Native villages may or may not be consistent with the policy goals of the Davis-Bacon Act. But, I do not know that personally, and that is why I am trying to get the committee a position statement on the issue from the people who do.

However, I would like to clarify one element of confusion that I may have created when I said that Fairbanks or Seattle make the wage rate in Kasigluk. If the only other construction projects in that village are State and Federal projects being done with labor brought in from Seattle and Fairbanks hiring halls, then the wage rate for Kasigluk is being set by Fairbanks and Seattle even though none of the people who live in the village are participating in the employment opportunity.

The point is that in that situation, Fairbanks and Seattle are setting the prevailing wage rate in a rural native community 600 miles in the middle of nowhere. It may be that local people who are going to receive homes as a result of this legislation, who are qualified to build them, can do so for a lesser amount of money because they do not need the transportation costs and the away from home pay, and the rest of the add-ons that are reflected in the cost of importing labor into the community. But again, I do not know whether that is the case, which is why I am trying to find out.

Senator MELCHER. It need not be the case. Let me point that out.

Mr. MITCHELL. That is correct. It need not be the case.

Senator MELCHER. The Department of Labor has plenty of flexibility under Davis-Bacon. There is the intent and the wording and the actual statute of Davis-Bacon where it is clear that you establish it in the community.

Davis-Bacon was not developed for what you are talking about. What Davis-Bacon was developed for, way back in the early 1930's, was to prevent dragging people into an area that would work for less than the prevailing wage. That is still, what you call public policy, excellent public policy. It is still excellent law.

It can work in the reverse. What we woud be concerned about in Montana is a contractor bidding on a job based on paying subcommunity wages and bringing the workers in from 100 miles away. We will not go the 600 miles that you have to do in Alaska, but bringing them in from 300 miles away or up to 300 miles away and ruining the economy of that community, not necessarily ruining it, but surely dampening the opportunity.

I am very serious about this. If the Department of Labor is not doing the proper job in establishing the prevailing wage, we would like to know about it because it does defy all logic. If the workers are available and are competent and the contractor wants them in the area, it defies all logic to have to drag them in from as far away as Seattle, or even Anchorage, for that matter for most of the villages in Alaska, because it is too far away.

I would appreciate whatever the members of your board say on this because I think it would be helpful to the committee.

Mr. MITCHELL. We will try to get that information to you before the record closes. Again, Mr. Chairman, I would like to say that I do not think we have as much of a disagreement on the Davis-Bacon issue as the dialog of the last few minutes might suggest.

Davis-Bacon was a sound policy decision. The point is whether the policy is applicable to the unique situation of Kwigilingok, Alaska. That is an open question which I hope the committee gives considerable attention before it makes a decision.

Senator MELCHER. We would like to pass the bill. It has been traditional in Indian housing to have the requirement in it, and under S. 856 and the House bill, they are creating a different concept for Indian housing when it looks like a great deal of merit. In the House bill they retain, in titles I and II, the Davis-Bacon protection and not in title III. In S. 856 they do not retain it in any of the titles. So it will be a policy shift for Congress if it is passed without Davis-Bacon in titles I and II.

That does create a separate issue apart from the usual on Indian housing. I do not know if that would help expedite the passage of a bill.

Mr. MITCHELL. I am familiar with the context in which the Davis-Bacon issue will be evaluated by the Congress. That is why I think it is important, and I am going to try and get some factual information about our situation, to give the committee as much information about the situation in Alaska as possible.

Senator MELCHER. I think that would be most helpful. I want to thank you very much and thank the Alaska Federation of Natives for its interest and support of the bill.

Mr. MITCHELL. Thank you.

[The prepared statement follows:]

PREPARED STATEMENT OF JANIE LEASK, PRESIDENT, ALASKA FEDERATION OF NATIVES, INC.

Mr. Chairman, members of the committee, my name is Janie Leask and I am the president of the Alaska Federation of Natives (AFN). AFN is the statewide organization established by the thirteen Native regional profit corporations established by the Alaska Native Claims Settlement Act (ANCSA) and eleven of the twelve Native regional non-profit organizations which provide health, housing, and social services to, and promote the economic and social well-being of, Alaska Natives who live within each geographic region of Alaska represented by a Native regional profit corporation which received land under ANCSA. Together, AFN's twenty-four member corporations and organizations represent the totality of the approximately 64,000 Native residents of Alaska.

On behalf of AFN, I would like to express our appreciation for the opportunity to present our views on S. 856, the "Indian Housing Act of 1983".

Before addressing the particulars of the bill, I would like at the outset to briefly review the Native housing situation and the unique logistical and historical conditions in rural Alaska which complicate the delivery of effective Native housing programs.

Of the 64,000 Natives resident in Alaska, the overwhelming majority live in one of over two hundred geographically isolated villages scattered along the coastline or along one of the major river systems. Because of Alaska's harsh weather conditions and the physical isolation of, and lack of roads to, most villages, the design and construction of village housing present unparalleled challenges. Transportation and other costs are enormous and the logistical complexity of moving building materials vast distances immense; an enormity and immensity exceeded only by the need for new and rehabilitated housing in most villages. These most recent statistics available from the Bureau of Indian Affairs (BIA) indicate that approximately 4,900 Native homes are in such terrible condition that they must be replaced, that 2,700 Native homes require major renovation, and that an additional 6,700 Native homes are in substandard condition.

And the poverty of Native village Alaska is as great as the housing need. Of the 10 poorest census districts in the United States, several are Indian reservations in the lower 48 and several more are Alaska census districts whose residents are almost exclusively Natives living in rural villages.

And the confusion surrounding land status further compounds the difficulty of designing and delivering effective Native housing programs in Alaska.

In 1971, the Congress enacted ANCSA to settle the claims of aboriginal title by the Alaska Native people to all 375 million acres within the boundaries of the new state which had been established 11 years before. ANCSA required each Native village to organize as a profit corporation under the laws of the State of Alaska. ANCSA also divided the state into twelve geographic regions and required the organization under the laws of the State of Alaska of a profit corporation to represent each region. Each Alaska Native living in a village was then issued 100 shares of stock in the corporation representing his village and 100 shares of stock in the corporation representing the region in which his village is located. Each village corporation was authorized to select and be conveyed in fee the surface estate of public lands in and around each village. The subsurface estate under village corporation lands is conveyed in fee to the appropriate regional corporation. To date, village and regional corporations have been conveyed slightly more than half of their 44-million-acre land entitlement.

In addition, section 14(c) of ANCSA requires each village corporation to reconvey to both Natives and non-Natives lands which they occupied on December 18, 1981, as a primary place of residence or business, subsistence campsite, or reindeer husbandry headquarters; to reconvey to a non-profit organization, e.g., a church, any lands which it occupied on December 18, 1971; and to reconvey to the state-chartered municipal government representing the village (or to the State of Alaska in trust for a future municipal government) up to 1,280 acres for community expansion and other foreseeable community needs, a category which may include housing needs. Few village corporations which have received conveyance of the lands which they have selected have completed the section 14(c) reconveyance process.

Title to public lands selected by a village corporation but which have not yet been conveyed remains in the United States.

Because of the complexity of the ANCSA land conveyance process and the uncertain status of particular lands in particular villages at particular points in time which is the result of that process, the status of land title can be a critical bott'eneck to the effective delivery of Native housing programs: a situation which requires that Indian housing legislation be drafted carefully and with sufficient flexibility to reflect the reality of village land ownership patterns.

And to further complicate matters, the Native organizations which administer Indian housing programs in Alaska usually are not the same organizations which own the ANCSA land base.

The BIA Housing Improvement Program (HIP) is administered in Alaska by either a Native regional non-profit organization or by an IRA representing a particular village. Most of the Native regional non-profit organizations have also formed regional housing authorities which administer the current HUD Indian housing program.

With respect to the concepts embodied in, and the specific language of, the Indian Housing Act of 1983, I have the following comments and suggested changes:

SEC. 3. DEFINITIONS

The definition of "Indian" in 25 U.S.C. § 479 is ambiguous with respect to the definition's applicability to Native participation in Indian housing programs. Consequently, the definition in subsection (5) should be amended to reference the definition of "Native" in section 3(b) of ANCSA. The definition of "tribal housing agency" in subsection (10) should be amended to reference an entity or administrative unit "of the tribe" as well as "of the tribal government". This change is necessary to reflect the derivative status of Native housing authorities in Alaska to the Native regional non-profit organizations which sponsor them. And lastly, the definition of "tribe" should be amended to include Native regional nonprofit organizations.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

Title I is a new codification of the HIP program and is strongly supported by AFN and its member organizations. During fiscal year 1982 alone, the HIP program resulted in the construction of 55 new units of Native housing and in the repair of 280 units of substandard housing. The fiscal year 1983 budget in Alaska for HIP is approximately $2.5 million. HIP has made a valuable contribution to improving Native housing conditions. The program should be continued and funded at no less than the present level.

TITLE II—INDIAN HOUSING FINANCE FUND

Title II is intended to replace the HUD Indian housing program with a similar, albeit administratively more flexible, program administered by the BIA. AFN's member Native regional nonprofit organizations have not yet developed a consensus as to whether a new BIA program is preferable to continuing the present HUD program. For example, the Association of Village Council Presidents, the Native regional non-profit organization which represents Natives resident in the 56 Yup'ik Eskimo villages of the Yukon-Kuskokwim River delta in southwestern Alaska, strongly supports Title II. The Tlingit and Haida Central Council, which represents Native residents of southeast Alaska, supports continuation of the present HUD program. See the attached copy of the Council's position paper on Indian housing. These differing positions undoubtedly reflect different experiences with HUD's administration of its program in different regions of the state.

However, Mr. Chairman, all of AFN's member corporations and organizations strongly support the concepts embodied in Title II in lieu of the block grant approach proposed by the Administration—even if Alaska Natives are included within the purview of the block grant proposal which thanks to OMB's cynical slight of hand they are not.[1]

With respect to the specifics of Title II, section 202 requires a tribal housing plan as a prerequisite to the approval of an application. Costs associated with the preparation of the plan are reimbursable pursuant to section 206, but that cash flow configuration may prevent otherwise eligible tribes from participating in the program. Because of the unique circumstances in Alaska, the tribal attachment provisions have little relevance to the situation in Alaska; however, the provision is unfair and unnecessary and should be eliminated. If a tribe or tribal housing agency is not doing an adequate job in ensuring the collection and deposit of residual receipts the BIA has a number of options for dealing with the situation ranging from technical assistance to improve administrative procedures to, as a last resort, terminating the tribe's or agency's future participation in the program. But if the collection and deposit of receipts are in arrears because the occupants of individual units simply do not have an income adequate to support their children, their energy needs, and their housing bills (a situation consistent with the reason they are eligible to participate in the program to begin with), that is a collective responsibility of the occupants, the

[1] *See* letter from David A. Stockman to the Honorable Ted Stevens (March 16, 1983), a copy of which is attached. OMB is well aware that with the exception of Native allotments and the Metlatakla Indian reservation in southeast Alaska there is no trust land in Alaska since the enactment of ANCSA.

tribe or agency, the BIA, and the Congress, and a workable procedure should be developed by all parties to deal with the situation. The requirement in section 211(c) that payments of residual receipts not fall below 90 per centum of the amount due is unrealistically high as the time periods for dealing with an agency's default are unrealistically short and do not reflect the logistical and communication realities of rural Alaska.

TITLE III—INDIAN HOUSING LOAN GUARANTY FUND

Title III establishes a program to provide access to private financing for housing located on trust land. Although Alaska Natives who can afford to finance their own home on one of the over 8,000 allotments in Alaska fall within the purview of the program, title III should be amended to include the acquisition or construction of a standard house in rural Alaska regardless of whether the land upon which it is built is or is not trust land. The reality of village Alaska is that absent a guaranty fund or similar program private financing is difficult to impossible to find in the bush regardless of the ability of a particular Native household to service the loan. And loan programs developed by the State of Alaska for state citizens (including Alaska Natives) with the requisite level of income, are not meeting village needs. As of July 1982, only approximately 13 percent of state home purchase program loans in Alaska were held by rural and remote households. As Deputy Assistant Secretary for Indian Affairs John Fritz noted last September in testimony before the Select Committee on Indian Affairs, "The attraction of private capital to the Indian country . . . in any program is terribly difficult." And regardless of land status, village Alaska is Indian country in which Deputy Assistant Secretary Fritz' observation is as valid as it is for Indian reservations in the lower 48 states.

Mr. Chairman, in closing I would like to express the appreciation of AFN and the entire Alaska Native community for your commitment to the goal of improving Indian and Alaska Native housing and to the development and implementation of housing programs necessary to achieve that goal. Thank you for the opportunity to express AFN's views. AFN and its member corporations and organizations look forward to participating with the Indian community from throughout the lower 49 states during the committee's consideration of this important legislation.

CENTRAL COUNCIL
tlingit and haida indian tribes of alaska
One Sealaska Plaza - Suite 200
Juneau, Alaska 99801

Position Paper
on
Indian Housing

Introduction

The Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCTHITA), a Congressionally recognized governing body of the tribes, is very concerned with housing needs, housing conditions, and housing programs for Alaskan Natives in Alaskan Communities. There is a need for new dwelling units, and a need to rehabilitate existing substandard dwelling units in Alaskan Villages and Urban areas. In the past new housing, and repairs for substandard housing have been provided by a mutual help program. In this program water and sewer systems have been provided by Indian Health Service, Department of Health and Human Services, new dwelling units have been provided by Department of Housing and Urban Development, and repairs have been provided by Housing Improvement Program, Department of Interior Bureau of Indian Affairs.

Indian Housing Position

CCTHITA supports the current mutual help program to address the immediate and continued need of Alaskan Native Housing in Alaskan Communities. With adequate funding to each of these program in future years Alaskan Natives can be provided decent, safe, and sanitary housing.

New legislation has been proposed in the form of HR1928 and S644 which would change Indian Housing from the mutual help program to a new program. The proposed legislation in the form of S644 would create a housing Block Grant demonstration program under Department of Housing and Urban Development (DHUD). The other alternative at this time in the form of HR1928 would realign Indian Housing under the Department of Interior, specifically the Bureau of Indian Affairs (BIA).

The Block Grant demonstration program causes great concern to CCTHITA as Alaska would be excluded legislatively. Even if Alaska weren't excluded legislatively, CCTHITA is concerned Alaskan Natives would still be excluded either through regulations, or due to proposed funding per unit constructed due to the high construction costs incurred in remote locations.

If Congress abandons the mutual help program, which CCTHITA supports, CCTHITA would support HR1928 or similar legislation placing Indian Housing under the Department of Interior, Bureau of Indian Affairs. This would provide a better program to meet the desperate needs of Alaskan Natives, as compared to the DHUD Block Grant program.

John Hope, President
Central Council of the Tlingit and Haida
Indian Tribes of Alaska

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAR 16 1983

Honorable Ted Stevens
United States Senate
Washington, D.C. 20510

Dear Ted:

This is in response to your letter of February 9, regarding the Administration's Indian Housing proposals for 1984.

As you noted in your letter, the current federal housing programs for Indians and Alaskan natives need major reforms to overcome their cumbersome and ineffective coordination difficulties, the unacceptably high per-unit costs, and their largely inflexible approach to unique Indian housing requirements. Consequently, the Administration is proposing two special programs for federally recognized Indian tribes (including Alaskan natives) occupying trust land: (1) a $76 million Indian Housing program designed to consolidate and coordinate the current housing activities of the Department of Housing and Urban Development and related infrastructure activities (e.g., water and sewer facilities) of the Bureau of Indian Affairs and the Department of Health and Human Services' Indian Health Service and (2) a $75 million Indian Community Development Block Grant program. Both programs (for which additional background is enclosed) would be operated by the Department of Housing and Urban Development.

The Administration intends to focus both these programs on those Indian tribes which cannot effectively participate in other federal housing assistance and community development programs. To be eligible for assistance under these two programs, an Indian tribe would have to be (1) federally recognized and (2) occupy trust land. The Administration believes assistance should be limited to federally recognized Indian tribes because of the special and direct government-to-government relationships between the Federal Government and federally recognized Indian tribes -- relationships based on numerous treaties and years of history.

Second, this Administration believes that special federal assistance is warranted only for Indian tribes residing on lands held in trust for them by the Federal Government. Since trust lands are inalienable, private-market financing is largely unavailable, especially for housing. These two special Indian programs are intended to overcome this particular problem.

However, for those Indian tribes which are not federally recognized or do not confront this unique trust-land problem, federal assistance is still available for them, as it is for all needy citizens, through means-tested benefit programs such as AFDC, Medicaid, and housing certificates and through block grant programs such as the State-administered Community Development Block Grant (CDBG) program and the proposed Farmers' Home Administration Rural Housing Block Grant. These two block grant programs are especially important tools in addressing the housing related problems of rural areas and Indian tribes because of their ability to tailor flexible approaches to unique problems and, with the addition of new construction as an eligible CDBG activity in 1984, to support both the new construction and rehabilitation of housing units in these areas.

I hope this information adequately addresses your concerns and that we can count on your continued support.

Sincerely,

David A. Stockman
Director

Senator MELCHER. Our next witnesses are John Fritz and Dr. Rhoades.

Mr. ALEXANDER (acting chairman). Mr. Fritz?

STATEMENT OF JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY RONALD PEAKE, CHIEF, INDIAN HOUSING ASSISTANCE OFFICE

Mr. FRITZ. Mr. Chairman, on behalf of the Department of Interior, I would like to thank you for allowing us to present our views, in particular the written criteria submitted as our opening statement that we believe are important for an effective Indian housing program. In order not to take up too much of the committee's time, I will ask that it be entered into the record.

Mr. ALEXANDER. Without objection, a copy of your entire prepared statement will be entered in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF JOHN W. FRITZ, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee, I am here to present the views of the Department of the Interior on S. 856, the "Indian Housing Act of 1983."

In reviewing Indian housing program alternatives, the administration has developed criteria which we believe are important to an effective housing program. These criteria are outlined as follows:

1. The program should facilitate the attraction of private capital to support Indian housing and not rely solely or predominantly on Federal funds or guarantees.

2. There should be no Federal housing assistance for Indian housing above a defined income level. Legislation should provide for such restriction on eligibility.

3. Since tribal lands cannot be attached, other forms of property and income flows should be used to guarantee programs. Every individual or tribe that has some assets should be required to pledge them as collateral to assure responsible program performance. Legislation should be explicit on this point.

4. Any Federal program should be designed with an objective of holding down the number of Federal employees to administer it.

5. Housing-related infrastructure should be supported out of the same appropriation as the housing program so that it is dealt with as a unified whole both by the executive and legislative branches. This does not preclude one agency from taking advantage of the expertise in another on a reimbursable basis.

6. Incentives should be built into the program to achieve production of maximum number of units at the least cost.

7. The program should require at least some minimal individual contributions from the owners or renters and provide incentives for proper maintenance and care.

8. The legislation and regulations should permit use of culturally appropriate standards and codes. Legislation should not impose unnecessarily detailed construction standards that may not be suited to particular areas, and provisions for waiver or adjustment to local conditions should be made.

9. The program should serve only Indians living on trust lands, since the inalienability or trust land is the key reason to have a special program. Other Federal programs are available to Indians who are poor or live in rural areas.

The administration recently submitted proposed legislation to Congress which was introduced as H.R. 1901 and S. 644, the "Housing and Community Develop-

ment Act of 1983." This legislation includes a new Indian housing and block grant program which constitutes the administration's approach to this issue and is consistent with the President's 1984 budget. Thus, we cannot support S. 856.

Under the administration's alternative housing program, a total of $151 million would be authorized for two programs:

(1) Seventy-six million dollars for the proposed Indian housing program in lieu of the existing HUD Indian program; and

(2) An increase of $44 million to $75 million under the proposed Indian block grant program.

With respect to the specifics of the administration's proposal, we recommend that the committee seek the views of the Department of Housing and Urban Development, and understand that HUD is preparing written views on S. 856.

This concludes my prepared statement and I shall be pleased to respond to any questions you may have.

Mr. FRITZ. With me is Mr. Ronald Peake, who is the chief of the Indian Housing Assistance Office within the Bureau of Indian Affairs.

Mr. ALEXANDER. Let me remind you, Mr. Fritz, that under the committee rules we are to receive testimony 24 hours in advance. For the record I would like to note that the committee in the future expects to receive its testimony 24 hours in advance. Please proceed.

Mr. FRITZ. Both of the units sitting at the table had a clearance problem.

Mr. ALEXANDER. I am just reminding you of the committee rules.

Mr. FRITZ. OK. There might be a number of instances then where we will not have anything in the record.

Mr. ALEXANDER. Mr. Rhoades?

STATEMENT OF DR. EVERETT RHOADES, DIRECTOR, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY BILL PEARSON, DIRECTOR, OFFICE OF ENVIRONMENTAL HEALTH, INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dr. RHOADES. Let me share gratitude with Mr. Fritz for the opportunity to appear before this committee. We, too, have a written statement that I would like to submit for the record.

Mr. ALEXANDER. Without objection, a copy of your entire prepared statement will be made a part of the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF EVERETT R. RHOADES, M.D., DIRECTOR, INDIAN HEALTH SERVICE, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman and members of the Committee: I am pleased to appear before you today to discuss the Administration's proposal to improve the Indian Housing program as it relates to your consideration of S. 856, the "Indian Housing Act of 1983." With me is Mr. Bill Pearson, Director, Office of Environmental Health, IHS.

Implementation of the Administration's Indian Housing proposal will strengthen efforts to achieve the goal of the IHS program to elevate the health status of the American Indians and Alaska Natives to the highest possible level. In addition, the Service, consistent with the spirit of the Indian Self-Determination Act, is striving to develop the capabilities of American Indians and Alaska Natives to operate their own health programs. These people live over a widely dispersed geographical area comprised of more than 250 reservations, colonies, and communities in 26 States and hundreds of villages in Alaska. The IHS provides a comprehensive public health program and a health care delivery system through 49 hospitals, 112 health centers and more than 300 health stations.

The Administration's proposals will be particularly important in efforts to provide safe and sanitary housing, waste supply and sewage disposal facilities, critical to the overall health and well-being of Indian people. Since 1959, IHS has constructed over $600 million in essential sanitation facilities to serve American Indian and Alaska Native homes in approximately 1,000 communities. By emphasizing the "total community" concept in the development of the projects and the improvements of the sanitation conditions, the IHS has not only served existing Indian homes, but approximately 79,000 new and renovated homes sponsored by various Federal and State agencies, tribes, and non-profit organizations. The availability of improved sanitation facilities and housing is acknowledged to be a primary factor in the major improvement of the health of the American Indians and Alaska Natives. From our past perspective, we strongly support the new directions proposed to consolidate Indian housing construction authorities, as well as program management.

The costs for operation and maintenance, once the facilities are built, are borne by the Indian families and communities. The Indian tribes have proven that they can operate and maintain these sanitation facilities to serve their people. While there are financial problems, and other difficulties, a survey of all tribal sanitation facilities in December, 1982, indicated that the tribally-operated sanitation facilities were in operation providing safe water and sewage disposal at least 96 percent of the time.

For many years, Federal Indian housing programs have required extensive coordination with respect to legislation and administration in the executive branch of government. There have been two housing authorities—HUD and Interior—and an additional authority for IHS to support construction of the sanitation systems for the HUD and interior-funded housing units, i.e., three construction authorities receiving Federal appropriations from different congressional committees for Indian housing. Synchronization of disparate funding sources has often been difficult and required substantial staff effort. As you can understand, this has at times led to some delay and inefficient use of Federal funds.

S. 644, the "Housing and Community Development Act of 1983", brings the authorities for Indian housing together under HUD. The IHS, which has valuable and needed technical expertise in public health and sanitary engineering, would continue to advise HUD on the priority locations and the sanitary health standards before and during the construction period. Under our proposal, this would be done at the appropriate time and would not delay the smooth funding and construction of Indian housing and sanitation units ready for use by Indians.

A single source of funds for new and renovated housing and the associated water and sanitation facilities would help to assure linking of both of the necessary components that are needed to create a suitable safe, comfortable, and healthy living environment. If a single funding source is established in the Department of Housing and Urban Development, it can continue to fully engage the sanitary expertise of IHS, the needs assessment capabilities of IHS, and the advice of the Indian community.

We urge favorable action on the Administration's proposal in S. 644 instead of S. 856, which we oppose. Our proposal contains $76 million ($38 million for grants and $38 million for housing payment certificates) for new and improved Indian housing and $75 million in the Community Development Block Grant (CDBG) which would allow Indian tribes to build infrastructures including, at the tribe's option, construction and improvement of sanitation facilities and systems. Under this proposed legislation, the IHS would maintain primary responsibility for ensuring the health of the Indian people through delivery of preventive and therapeutic health services.

Mr. Chairman, this completes my prepared statement. Mr. Pearson and I will be pleased to try to answer any questions which you or other members of the Committee may have.

Dr. RHOADES. I will not summarize my statement further except to point out the interest that the Indian Health Service has in everybody giving attention to the fact that essentially, in relationship to housing and the provision of shelter, we really are talking about a health matter, and therefore we do have that interest in it.

We also appreciate the interest on all parties to somewhat simplify and clarify the provision of houses for Indian people.

I am accompanied by Mr. Bill Pearson who is head of our office of environmental health. We would be very happy to try to answer any questions you may have.

Mr. ALEXANDER. Thank you. Dr. Rhoades, I understand that the provision of health status for Indian people is a national goal. Do you consider part of this goal to be preventive health, and would you include Indian housing within the context of preventive health care?

Dr. RHOADES. Yes. The provision of shelter is a factor without which most other attempts to elevate health would certainly be suboptimal. No. 2, although a great deal of attention is given to the sanitation aspects of housing, and properly so, I would like to just simply point out further that utilizing what I regard as the old Indian concept of health—that is, a state of being in which individuals may exist in their environment in a state of harmony—absolutely requires sound housing, leaving sanitation aside.

Mr. ALEXANDER. It is the committee's understanding that HUD had promised to pay for water and sanitation infrastructure through a transfer of funds from HUD to IHS in 1982. Has this fund transfer ever occurred?

Dr. RHOADES. I think the proper way to describe the status of the transfer is that we are in the process at this moment of undergoing that transfer.

Mr. ALEXANDER. What does that mean?

Dr. RHOADES. Not all of the money has been transferred at this moment.

Mr. ALEXANDER. How much of it has been transferred?

Dr. RHOADES. Approximately $3 million has been transferred out of $18 million, as scheduled.

Mr. ALEXANDER. When do you anticipate the remainder of the $18 million will be transferred?

Dr. RHOADES. We believe that the remainder of the $18 million should be forthcoming shortly, in the next few weeks.

Mr. ALEXANDER. Thank you. Are you familiar with the numbers of completed HUD-constructed homes that currently lack either water, or sewer, or both?

Dr. RHOADES. The data that Indian Health Service has suggests that there are somewhere between 150 and 200 homes constructed but without sanitation facilities.

Mr. ALEXANDER. In your personal and expert opinion, do you believe that HUD is capable of operating a sanitation facility program?

Dr. RHOADES. I am not totally personally knowledgeable about the extent of the expertise that exists within that Department at the present time. If I may venture a personal opinion, I believe that it would be necessary to add individuals possessing sanitation expertise to HUD in order to provide the needed expertise.

Mr. ALEXANDER. Do you know whether or not there would be a difference in the cost factors between IHS providing water and sanitation services and HUD providing water and sanitation services?

Dr. RHOADES. I believe that we can say that, based upon a comparison between the recent ways of providing those sanitation facilities—that is, through the way that the Indian Health Service has been doing it—and the present technique of doing it under the transfer of funds

from HUD, our experience would indicate that on a unit basis it is somewhat less expensive to do it with the usual Indian Health Service technique rather than with the technique of transferring funds from HUD to IHS.

Mr. ALEXANDER. Could you specify, in dollars per unit cost, what somewhat less expensive means?

Dr. RHOADES. I think I can answer that. The current estimate for Indian Health Service would be about $7,500 per unit, compared with perhaps $10,000 to $11,000 per unit with the HUD technique. I hesitate to call it the HUD technique. That implies more, I think, than what I wish to imply.

Mr. ALEXANDER. That would be approximately 50 percent more, given the figures.

Dr. RHOADES. Perhaps 25 to 30 percent more would be more accurate.

Mr. ALEXANDER. Mr. Fritz, how many staff members do you currently have assigned exclusively to the BIA's housing improvement program?

Mr. FRITZ. A total of 65 or 66.

Mr. ALEXANDER. Do you know how many new staff members would be required to administer the program envisioned by Senate bill 856 were it to pass?

Mr. FRITZ. As I understand it, and after extensive discussions with my staff, I think the total number would be approximately 200, which would mean an additional 150 people.

Mr. ALEXANDER. Have you, in the discussions with your staff, come up with a transition plan of how long it would take to implement such a program?

Mr. FRITZ. We have looked at it. With a program of this magnitude, we are looking at—by the time we get appropriate regulations, the necessary details down, the necessary consultation with the tribes, and examine the entire package, I would presume at a minimum we would not get started for 6 months. It would take about a year to implement title II.

I guess title I would be 6 months. Titles II and III would take at least 1 full year.

Mr. ALEXANDER. In testimony earlier today, it was suggested that some of the staff currently functioning under the HUD housing program have developed some expertise in this area. It was suggested that the committee either report language or in the bill itself mandate their transfer to the Bureau. What would be your view of that suggestion?

Mr. FRITZ. The concept of getting highly qualified and highly trained people, obviously, to augment a program is one that is both laudable and necessary. On the other hand, we have certain personnel rules, Indian preference, which would cause us to closely examine the personal qualifications of the individuals who would be transferred.

We do operate under the Indian preference laws, and as a result there would be some potential fall off in terms of the employees coming across.

Mr. ALEXANDER. As I understand it, HUD has expressed its view that under the provisions of S. 856 there is not a current authorization

for financing in the secondary mortgage market. Do you agree with this view or have a similar view?

Mr. FRITZ. I am going to have my expert answer that, Mr. Chairman.

Mr. PEAKE. Mr. Chairman, I think that the position was accurately stated by Mr. Froman in his earlier testimony. It is also my understanding from a lot of work in this area that title III with private mortgage insurance would certainly be eligible in the secondary markets.

Mr. ALEXANDER. Thank you.

During the development of S. 644, which is known as the administration's proposal, was the Bureau of Indian Affairs involved in any way in the drafting or consulting process?

Mr. FRITZ. At my level, I was not involved. I do not think they were involved either.

Mr. PEAKE. No; that is right, Mr. Chairman, we were not involved.

Mr. ALEXANDER. After the bill was drafted, were either of you gentlemen contacted about how to find tribes to consult?

Mr. FRITZ. Mr. Chairman, once again I was not contacted with regard to consultation, and I do not believe staff was either.

Mr. PEAKE. No; I do not think so either.

Mr. ALEXANDER. There has been a good deal of testimony today about the provisions of S. 856 that requires the pledging of tribal income, or income from assets, to be eligible to participate in HUD's program. Could you comment on that provision of the bill?

Mr. FRITZ. Excuse me. Do you mean S. 856, section 205, the pledging of assets for participation in this program, not in HUD's program?

Mr. ALEXANDER. Yes.

Mr. PEAKE. I feel, after reading the bill—and again this is a personal feeling of mine based on some long years of technical experience in the Indian housing program—that this sanction and the due-process clauses involved are adequate and would have limitied impact on the tribe but would have maximum impact on the integrity of the program.

Now, having said that from a technical point of view, I am not at all commenting nor would I like my remarks to be interpreted in any way as a comment, on what the tribes may feel about the issue, the concept, of attachment of trust funds.

Mr. FRITZ. Mr. Chairman, it becomes a very difficult call, as a matter of fact, when you look at this because what section 205 is doing is in effect having a diminution with respect to the trust assets of either individual Indians or tribal trust assets. So as a result, there is a diminution of the trust, and that is one of the things that we, as an organization, are charged with protecting, enhancing, and, to the extent we can, enlarging.

It puts us in a very difficult role when you look at that aspect and that concept within S. 856.

Mr. PEAKE. I would add something that does not seem to be mentioned along this line. Part of section 205 also calls for the attachment of unobligated trust funds of individuals. That part seems to have no opposition, or I have not heard a great deal of opposition, if any. So, it is a two-part section. One part has not elicited any strong objection.

Mr. ALEXANDER. For the record, I would like to have the Department's official position on the provision that we have been discussing, since it engendered such a great amount of discussion from tribal witnesses earlier.

Mr. FRITZ. We would be happy to do so.

[Subsequent to the hearing the following information was received for the record:]

The following comments apply only to the question of attachment of unobligated tribal trust funds and not to the attachment of individual trust funds. As mentioned in our testimony, an official position of the Department on this issue would require extensive consultation with the tribes. After listening to the negative reaction of the tribal representatives and those testifying on behalf of Indian organizations, however, we would comment that section 205 of S. 856 should be rewritten to preclude an initial assumption of guilt. The sanction should come into play after there is a clear record of default and bad faith. Further, we suggest that should the default be corrected and good faith exhibited by the tribe or village, there should be language that would permit consideration of the removal of the sanction.

Mr. ALEXANDER. In addition, I would like your oral comments on the HUD proposed program with respect——

Mr. PEAKE. Excuse me for a moment, Mr. Chairman. Let me consult with Mr. Fritz on this.

Mr. FRITZ. Mr. Chairman, as correctly pointed out by Mr. Peake to me, that is the kind of thing where I do not know if we can give you a quick answer because the issue involved is of such magnitude that we are going to end up having to have consultation with respect to that issue.

We will try to get it to you as quickly as possible.

Mr. ALEXANDER. We would appreciate that.

With respect to the HUD proposal, there are a number of concepts that I would like you to comment on from your role as trustee. One is the comortgage concept between the tribe and tenant.

Mr. PEAKE. I am choosing my words carefully, Mr. Chairman. Comments in what regard? If you want a technical comment from me, that is not a workable proposition.

Mr. ALEXANDER. I see. How about the pledging of income from other Federal programs?

Mr. FRITZ. That gets in once again, Mr. Chairman, to a large consultation issue. It is a policy cut that has to be discussed throughout Indian country. It is not something that is easily done or turned aside by statutory language.

Mr. PEAKE. Mr. Chairman, give us one moment while I consult with Mr. Fritz.

Mr. Chairman, one of the problems in S. 644 from our perspective in terms of policy is that the attachment as written has no limits. That does concern the Department.

In addition, there is a question—and I think it may have been brought up before—there is a question about the definition of "assets." Certainly if assets mean trust land in any regard then the Department is opposed.

Mr. ALEXANDER. A final question, in terms of your comments from your trust capacity relating to the pledging of tribal income, or income from assets in some cases, to be eligible to participate in HUD's proposed program. Do you have any comments on that?

Mr. FRITZ. In some instances, obviously if we are looking for tribes that have income, some tribes do not generate any income. The only income in effect that is coming in through the tribe or to the tribe is from governmental sources. So, if it is going to be a threshold issue, or if the tribes can only participate in the program if they have income, then some tribes are obviously going to be cut out totally.

Mr. ALEXANDRIA. As I noted, we would appreciate, in writing, those additional policy considerations that you wish to raise.

Mr. FRITZ. We will do that.

[Subsequent to the hearing the following information was received for the record:]

In addition to the question of what happens to tribes with no assets and the fact that this attachment is open-ended, the language of HUD's proposal (S. 644) is too broad. There could be serious, practical, economic, and policy questions with regard to the requirement of pledging Federal grants for payment of mortgage insurance claims paid.

Mr. ALEXANDER. I have one final thing before we hear from Mr. Abrams. Staff went over your submitted testimony, Mr. Fritz, and of the nine items that you list that come out of the task force report on policy criteria, it seems to us that S. 856 squares with eight of the nine items. I would like to have some detailed analysis from the Department as to why S. 856 is therefore deficient.

It seems to us, at least from our reading, that it is eight-ninths of the way there. We would at least discuss the other ninth.

Mr. FRITZ. Would you like to have that in staff meetings or in writing or how?

Mr. ALEXANDER. I would like to have it in writing for the record.

Mr. FRITZ. We will do that.

[Subsequent to the hearing the following information was received for the record.]

We suggest that S. 856 include authorization for appropriations for water and sanitation facilities. Thus, the budgeting process could be accomplished by one agency and thereby simplify the coordinating responsibilities and reduce the implementation problems. Under Title I and II of the bill, Indian people living off of trust land would be served. We believe that a housing program of the nature envisioned under these titles should be confirmed to trust land because it is this inalienability of the land that makes it so difficult to obtain housing.

Mr. ALEXANDER. Thank you, very much for your testimony.

Mr. Abrams, welcome. Please introduce your colleagues.

STATEMENT OF PHIL ABRAMS, GENERAL DEPUTY ASSISTANT SECRETARY FOR HOUSING, DEPARTMENT OF HUD, ACCOMPANIED BY PAT ARNAUDO, ACTING DIRECTOR, OFFICE OF INDIAN HOUSING, DEPARTMENT OF HUD; SANDRA L. ALLISON, SINGLE FAMILY HOUSING AND MORTGAGE ACTIVITIES, DEPARTMENT OF HUD; AND RAYMOND E. COMBS, SPECIAL ASSISTANT TO THE SECRETARY FOR INDIAN AND ALASKA NATIVE PROGRAMS, DEPARTMENT OF HUD

Mr. ABRAMS. Thank you, Mr. Chairman. I am joined today by Pat Arnaudo from our Office of Indian Housing, Sandy Allison from our Single Family Programs Office, and Ray Combs, Special Assistant to the Secretary for Indian and Alaska Native Programs.

Mr. Chairman, I have a written statement, and I appreciate the opportunity to be able to testify before you today. I will submit the testimony for the record. I believe most of the issue and most of the elements included in my testimony have been discussed with the committee before. I would be happy to, at this late hour, save you from a summarization, and I will answer any questions you have.

Mr. ALEXANDER. Without objection, a copy of your entire prepared statement will be inserted in the record at this point.

[The statement follows:]

PREPARED STATEMENT OF PHILIP ABRAMS, ASSISTANT SECRETARY FOR HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman and members of the committee. I am again pleased to appear before your committee to discuss Indian housing issues.

As I indicated to your committee in February, the Department of Housing and Urban Development is committed to delivering new housing and rehabilitating existing housing in Indian areas. Our goal is to maintain the Federal responsibility to produce the maximum number of new homes annually without excessive budget authority; to do away with restrictions so that the private sector can participate in Indian housing; and to provide tribes with more freedom to operate their housing programs without Federal interference.

The administration's fiscal year 1984 budget demonstrates our commitment for delivering Indian housing in 1984 and future years. A total of $151 million in budget authority is proposed for two Indian initiatives to fund new homes, the water and sewer facilities for these homes, and community development activities (including rehabilitation). Since I discussed this proposal in detail with you in February, I will only highlight the two initiatives at this time.

The first initiative, the Indian housing program, would involve a combination of grants to write down mortgage costs, an FHA single family mortgage insurance program modified so the trust land would not be jeopardized, and, for very low-income families, the housing payments certificate program which would tie the new units for a 15-year term. A total of $76 million in budget authority would be authorized to facilitate the construction of 1,500 homes. Of this, $38 million would be used for housing grants, including water and sewer facilities, and $38 million for the certificates.

The second initiative is an expansion of the community development block grant program—to make new construction an eligible item for all eligible recipients, including Indian tribes. A total of $75 million in budget authority would be authorized, $44 million more than is currently available under the Indian community development program.

The combined production of both programs would result in at least 2,500 new homes and could produce up to 4,000 safe and decent homes per year, depending on tribal decisions. This, in brief, is the administration proposal.

Turning to other initiatives, the Rural Housing Subcommittee of the Senate Banking Committee is in the process of obtaining tribal input on the following changes in the administration's proposals for Indian housing and community development:

Within the proposed $151 million in total budget authority, the Indian housing program is increased to $101 million from $76 million by shifting $25 million from the Indian community development block grant program. The rationale behind this change is to assure more Federal dollars are spent specifically on housing.

These comprehensive housing grants can be used for low-income families for any combination of new homes, water and sewer facilities, as well as rehabilitation, thus giving tribes greater discretion in the mix of housing approaches to meet their needs.

The FHA mortgage insurance provisions are modified to permit qualified Indian families to be the sole owner without requiring the tribe to co-sign the loan. A higher mortgage premium would be charged and the family would be required to pledge income from their share of trust assets. The tribe would also be eligible to finance homes under the FHA program. The tribe, as the owner, could rent the homes to Indian or non-Indian tribal employees. Certificates would be available to make the homes affordable to very low-

income families. A model foreclosure provision would allow Indian homebuyers full exercise of their rights of due process in a court of law in the event of foreclosure. Further, the FHA provisions are optional and are not required to finance every newly constructed home.

While the administration believes many of the Senate recommendations are positive changes in HUD's fiscal year 1984 Indian initiative, we do have a strong reservation with three aspects of the Senate proposal as it is currently drafted. We are concerned that the Senate proposal does not require a family or tribal contribution. The current HUD Indian programs require a family contribution. The absence of a family contribution policy in this proposal would result in the Government's providing an inconsistent message regarding the family's obligations in HUD's Indian housing programs. We are also concerned that the Senate proposal deletes the co-mortgagor concept but does not substitute adequate procedures to make the program actuarially sound. Finally, we are concerned that the eligibility for this special Federal assistance designed to assist tribes who do not hold title to their land is too broad.

However, with these exceptions, we believe the administration's proposed Indian housing legislation, as amended by the Senate Banking Committee, provides an effective and responsible system for delivering Indian housing. It relies on the expertise of existing housing staff both in HUD headquarters and HUD field offices, thereby requiring minimal startup time. In contrast, S. 856, the Indian Housing Act, requires the creation of new program and staff mechanisms which are unwarranted in a time of scarce resources. Furthermore, this bill sets up another complex delivery system which will not permit tribes to have the discretion to design programs tailored to their individual needs.

Following is a summary of HUD's major concerns with S. 856, many of which I discussed in hearings held by the select committee in September 1982.

(1) Title III of S. 856 would establish a new loan guarantee program to facilitate home mortgage loans for Indians. We believe this program is poorly structured and will therefore discourage use by private lenders because: (A) There is no authorization for financing in the secondary mortgage market which is essential for lender acceptance; (B) it does not provide for insurance of construction advances as the administration's bill does; and (C) lenders will only receive 95 percent return on their investment in cases of default whereas FHA guarantees returns of 100 percent.

The proposed HUD changes in the FHA program would facilitate the involvement of the private sector on Indian areas without any new Federal funds. The loan guarantee program envisioned by title III would also require additional training and hiring of Federal administrative personnel and substantial startup costs to establish the insurance fund used to satisfy financial obligations which arise pursuant to title III. In contrast, no additional Federal staffing or additional startup costs would be required if FHA mortgage insurance programs now in effect were used.

In light of the continuing incentives to use the FHA and VA programs and HUD's proposed amendment to remove existing barriers to the use of FHA insurance for Indian housing, we see the loan guarantee program proposed in this bill as an unnecessary and an unwarranted duplication of current Federal programs and proposals.

Further, from our past experience, it seems unlikely that lenders would find it preferable to use a new untested program when the expertise and financial incentives exist in FHA and VA.

(2) Title II of S. 856 creates a Federal revolving fund. This provision will not reduce the Federal role, which is one of the administration's goals.

(3) The family contribution requirements under title II are fiscally irresponsible and inequitable. Families assisted under title II would be required to make monthly payments of 20 percent of adjusted family income or the minimum administration fee. The deductions from gross income used to compute adjusted gross income, however, are much more generous than currently provided for in HUD's Indian housing as well as other assisted housing programs. Each family would be permitted a $1,000 deduction per family member, as well as a further deduction of the greater of $3,400 or the amount of the family's itemized deductions for that tax year.

In contrast, proposed HUD programs permit a $300 deduction for each dependent in Indian housing, or other assisted housing and a $400 deduction for an elderly or handicapped head of household. All deductions average approximately

$1,500 in HUD's current and proposed programs. The family contribution policy in S. 856 is also inequitable since low-income families would have to pay much more than 30 percent of their income even with the excessive deductions when maintenance and utilities are considered. Current housing law as well as the administration's proposals provide for a maximum gross rent contribution (rent plus utilities) of 30 percent of adjusted income.

(4) With respect to dwelling size limitations, I would stress that in HUD programs the failure to use maximum size limitations has resulted in unnecessarily large dwellings, thereby reducing the number of units which could receive assistance. Accordingly, size as well as construction guidelines may be more advisable than statutory limitations, which gives the program managers the administrative flexibility to operate the program.

(5) S. 856 indicates that the program is to be administered by a tribal housing agency under an agreement with the tribe. However, the bill does not clearly state that the tribe is legally accountable in the case of defaults or other problems. Based on HUD's experience with defaults by IHAS and no legal accountability by the tribal government, it is clear that project agreements must be applied for, executed by, and administered on the basis of full legal responsibility of the tribal government.

(6) The housing standards applicable to titles I and II are too specific in the electrical, heating, and plumbing areas and too vague in other areas, particularly with reference to structural criteria. The HUD approach for both existing and new construction standards is to give the tribes the flexibility to use either local or model housing or building codes, with the option to grant waivers to assure culturally appropriate housing is provided as long as minimal health and safety standards are met.

(7) S. 856 does not include the cost of infrastructure, such as water and sewer facilities. It assures that IHS would fund these facilities at an additional cost to the Government. The administration bill consolidates all the funding for the major Indian housing and community development programs under the Department with current expertise and responsibility for housing, and includes funds for infrastructure to support new housing. However, this does not preclude the tribe from using the Indian Health Service or any private contractor to assist with improving the infrastructure.

(8) Title I, which authorizes funds for repair, new construction, or acquisition, mirrors the current BIA housing improvement program (HIP). We question the advisability of authorizing this program in a new bill when authority for the BIA, HIP program already exists.

(9) S. 856 directs the Indian Health Service to perform housing as well as sanitation inspections. Increased staff and appropriations would be required to implement this requirement which represents an unnecessary use of scarce Federal financial resources. It is also questionable whether IHS should be responsible for monitoring construction when this would duplicate the responsibility of the administering housing agency.

(10) The Senate bill requires a biennial housing survey, which is duplicative and unnecessary since the Census Bureau provides this information for HUD at the cost of several million dollars per year.

(11) Finally, we note the development of three separate programs would be extremely staff intensive. Two of these are new programs. Further, we believe Indian people want to be able to take advantage of the housing programs administered by HUD, VA, and FmHA and not be relegated to dealing with a single agency.

In conclusion, we are opposed to S. 856, because we believe the comprehensive Indian proposal HUD submitted to the Congress for 1983 will more effectively deliver Indian housing. S. 856 establishes another complex delivery system which would lead to increased administrative costs and less efficiency in the administration of Indian housing. On the other hand, the administration's bill and the Senate Banking Committee amendments, with a few exceptions, allow much greater tribal autonomy and flexibility and will permit tribes to have discretion to design programs tailored to their individual needs.

In closing, I would like to assure this committee that while the future of Indian housing programs is under discussion, HUD will work diligently through the Indian housing authorities to manage the current Indian housing program in the best and most efficient manner.

This concludes my prepared testimony. I would be happy to answer any questions.

Mr. ALEXANDER. Can you tell us how many staff members HUD currently has who deal specifically with Indian housing?

Mr. ABRAMS. We have 180 staff people who are working exclusively on Indian housing programs and a great number of people who will provide backup for the field offices and central office in addition.

Mr. ALEXANDER. Do you have any regional offices that are specifically Indian field offices?

Mr. ABRAMS. We have five.

Mr. ALEXANDER. There was some testimony earlier today from a number of national tribal organizations that would leave one with the impression that tribal organizations and tribes themselves were not consulted, with any depth, in the development of the HUD program. Is that a correct impression? Would you like to comment on that?

Mr. ABRAMS. There have been numerous consultations with representatives of Indian tribes describing the program, as well as with members of specific tribes discussions about the program, both by myself, by Pat Arnaudo, and by Ray Combs who is the special assistant to the Secretary for Indian and Alaska Native programs.

We have received input and have incorporated the input that we felt appropriate in putting together the administration's proposal for the Indian housing programs.

I might also add that we had participated in the interagency task force on Indian housing with the Department of the Interior and the HHS representatives. Our proposal from the administration was submitted to that task force, and the people from both of those agencies participated in the deliberations and considerations on those issues before it went to the administration for final decision.

Mr. ALEXANDER. Senator Melcher left a few questions to be asked. The Senator would like to know what the status of the proposed regulations are that were published on December 29, 1982, which would alter the eligibility limits and increase the rents for Indian housing. I assume those were proposed regulations.

Mr. ABRAMS. We have comments on those proposed regulations, I am advised, and are reviewing them before taking any further action.

Mr. ALEXANDER. Could you give us the nature of the comments that you have received from Indian housing authorities to these proposed regulations?

Mr. ABRAMS. Neither of us are familiar with them. We will have to answer that for the record.

Mr. ALEXANDER. We will appreciate that. Thank you. Without objection, the record will be held open to receive that information.

[Subsequent to the hearing the following information was received for the record:]

In regard to the proposed regulation published on December 29, 1982 that would alter eligibility limits and increase the rents for Indian housing, the Department of Housing and Urban Development received comments from ten IHAs. Their comments stated the following concerns:

(1) IHAs should continue to have the right to determine eligibility criteria due to the fact that reservations are subject to unique factors best understood at the local level;

(2) The income limit provision would harm those who own land or property which produces little or no income and discriminates against the elderly and the poor. This rule should, therefore, exclude IHAs because Indian tribal lands are usually held in trust, making it impossible to determine how much of an interest

in trust is held by any individual Indian. If Indian land could not be exempt from such a provision, then at least trust land which prodduces no income should be excluded;

(3) Annual recertification would reportedly not be cost effective. Administrative costs resulting from such rent examination would be costly and would impose a burden on IHAs;

(4) Any rent increase (from 25% to 30% of income) would be a burden on many Indian families;

(5) The 10 percent cap and gradual implementation would create an administrative burden, require extra calculations and lose any benefits accruing from the rent increase.

(6) Income verification measures would give investigators powers which cannot be effectively regulated, leading to a potential for abuse.

(7) Use of the Form HUD–50059 for the verification provision would be impractical and should not be required.

(8) Unification of Section 8 and Public Housing guidelines would result in a shift of tenants from public housing to Section 8 housing, and public housing is less desirable than assisted housing.

The Department is currently examining these concerns as well as the concerns of Public Housing Agencies and other interested parties before it develops final regulations.

Mr. ALEXANDER. During the oversight that this committee held on the budget back in late February, Senator Melcher requested a list of mortgage bankers who have loaned money to Indian trust lands from home builders. To date, we do not seem to have received such a list. Do you have that available?

Mr. ABRAMS. Could you repeat the question?

Mr. ALEXANDER. During the oversight hearings that this committee held in late February on the budget, Senator Melcher requested a list of mortgage bankers who have loaned money to Indians with trust lands. As of yet we do not seem to have received such a list. Do you have it?

Mr. ABRAMS. We have compiled some areas where there have been FHA insured mortgages on Indian lands in Oklahoma, and we are aware of seven multi-family mortgages in those instances. We are also aware of 142 FHA insured mortgages on Navajo land.

We do not at this point have the specific mortgagees who are involved, but we would be happy to provide that.

Mr. ALEXANDER. We would appreciate that. Without objection, the record will be held open to receive that information.

[Subsequent to the hearing the following information was received for the record:]

The seven FHA-insured mortgages on Indian lands in Oklahoma, with the exception of the two Section 202s, were loans made on privately acquired land. The section 202 home loans were HUD financed loans.

Specific mortgagees involved in FHA insured mortgages in Navajo areas include: Southern Trust Company, located in Phoenix, Arizona; Valley National Bank, located in Phoenix; First Federal and Savings, located in Phoenix, and Great Western Bank, also located in Phoenix.

Mr. ABRAMS. We do have a list of mortgagees we have contacted and the areas that they service who are interested in participating in the HUD FHA proposal if you would like that for the record.

Mr. ALEXANDER. Yes, we would like to have that for the record.

[The material follows:]

Following is a list of private lenders contacted by HUD staff who expressed an interest in participating in the proposed HUD Indian housing program:

(1) Bankshares, serving the Denver area;

(2) Cameron & Brown, serving the North Carolina, Georgia, South Carolina, Florida, Virginia, and Mississippi areas;
(3) Commonwealth Mortgage Co., with headquarters in Boston, serving a six State area;
(4) Continental Mortgage, serving tribal areas in Oregon and Washington;
(5) First Interstate Bank, serving the Oregon and Washington areas;
(6) Gulf Coast, serving Texas, New Mexico, Louisiana, California, Georgia, and Florida;
(7) Knutson, serving the Denver area;
(8) Lomas & Nettleton, with approximately 105 branches and serving the Denver area;
(9) Rainier Mortgage, serving the Oregon and Washington areas;
(10) Schumacher, serving Tennessee, Minnesota, and Michigan;
(11) Security Pacific, serving Washington, Texas, California, Minnesota, and Oregon;
(12) Shearson American Express, serving Louisiana, Arizona, Oklahoma, Texas, Utah, Georgia, Tennessee, Idaho, and Washington;
(13) Stockton, Whatley, Davin and Co., serving the Florida and Georgia areas;
(14) Union Mortgage, serving Arkansas, Alabama, Texas, Georgia, Oklahoma, New Mexico, Ohio, South Carolina, Illinois, Kansas, Tennessee, Virginia, Iowa, Missouri, Mississippi, and Indiana.

Mr. ALEXANDER. Getting back to our hearing held back in late February, Senator Murkowski at that time inquired of you as to what you meant by trust lands in Alaska, and you did not have a particular definition. How would you respond to that inquiry at this time?

Mr. ABRAMS. I think our definition of trust lands are lands where title to the land is not held by an Indian tribe, village, or family.

Mr. ALEXANDER. Thank you.

S. 644, the administration's bill, how did this address the problem of foreclosure for a lender should there be a default on an FHA loan?

Mr. ABRAMS. The proposal is that, with the tribe as a comortgagor, instead of foreclosure the tribe could either identify another Indian family that would be able to replace the previous family, or the tribe could be the sole mortgagor and put a very low-income family into the house and attach a certificate to the house so that the very low-income family could afford the mortgage payments.

Mr. ALEXANDER. Getting back to Alaska for a moment, as I understand it, the administration proposal basically precludes assistance in Alaska, and we were inquiring 2 months ago as to what the basis for that exclusion would be. Would you like to again respond to that question as to the basis for excluding Alaska from housing programs for Indians?

Mr. ABRAMS. The intent of the administration's proposal is not to exclude any specific federally recognized Indian group, whether it be Alaskan Natives, or a lower 48 tribe. The intent is to provide special Federal assistance through both grants and expanded eligibility for FHA insurance, primarily for new housing construction, rehabilitation, and related infrastructure, where private financing is unavailable because the title to the land is not held by the Indian tribe, village, or family. The title may not be held by a tribe, village, or family because of the permanent trust status of the land or simply because of a temporary problem of transferring the title to a tribe, village, or family.

Where, however, title is held or eventually is transferred to an Indian tribe, village, or family, the situation is no different from that of other Americans who can use their land title to obtain private financing and, therefore, do not have the unique needs for the special Fed-

eral assistance targeted on federally recognized tribes who do not have title to their lands.

Tribes, villages, or families who have title to their lands and who, therefore, would not be eligible for this special Federal assistance, would, however, continue to be eligible for other Federal nonrecipient specific assistance for low-income groups such as the small city CDBG program and the Farmers Home rural block grant proposal. These two programs alone are proposed for nearly $2 billion in funding for 1984.

Mr. ALEXANDER. Specifically, to translate that for Alaska, does that mean that Alaska Natives under the proposal would be required to seek out whatever other particular Federal programs may exist outside of Indian housing and nothing else?

Mr. ABRAMS. It depends on the particular status.

Mr. ALEXANDER. Well, with the exception of the one trust reservation in Alaska, which is very small, you just described most Alaska Native villages.

Mr. ABRAMS. Several entities in Alaska have tribal or village trust land and would be eligible to participate in the program. I can recite the entities for you. They are the Metlakatla Indian community and the native villages of Kate, Angoon, Klawock, and Hydaburg.

Mr. ALEXANDER. Am I correct that the short answer is basically that Alaska Natives predominantly would be excluded from the administration's proposal?

Mr. ABRAMS. That is correct.

Mr. ALEXANDER. It is our understanding that the Subcommittee on Rural Housing has withdrawn its provision for the Indian housing bill pending further tribal input. In your consultations with the tribes to date, have many, or any, responded in favor of the administration's proposal with respect to Indian housing?

Mr. ABRAMS. In addition to the testimony you received today, which is the official position, we have an indication of particular problems with the administration's proposal, particularly the provisions for a comortgagor, but a general preference for the administration of housing programs by HUD as opposed to the Department of the Interior.

Mr. ALEXANDER. Is that a widespread phenomena in terms of the specific comments that you have received?

Mr. ABRAMS. I can only speak for the people that I have talked to, and it is widespread among those who have spoken to us directly. The focus of concern has been on the comortgagor provision, and that this provision is absent from the Banking Committee's draft.

Although I have problems with the removal of that provision, I think that answers a great many of the objections. I can let Pat Arnaudo speak about her meetings with some of the tribal representatives.

Ms. ARNAUDO. Both Ray Combs and myself have gotten comments favoring a HUD administered program. The program is in place, and they would favor such a program. In terms of comments on the administration's proposal, the basic concern has been the fact that there is a comortgagor concept. We have repeatedly asked if there are alternatives to make the program financially sound.

Mr. ALEXANDER. Could you give us an idea of what the numbers are that we are talking about when you have heard positive comments?

Is it 100 or 3 or 5? Do you have some sort of ball park figure so we will know what you are referring to?

Ms. ARNAUDO. I have received comments on the phone repeatedly from all parts of the country. I cannot give you an actual number. I sometimes talk to 10 or 15 people a day. I know that some of the people I talk to have said that they would like a HUD program and that they would like the Cochrane program in HUD.

Mr. ALEXANDER. Thank you.

Mr. ABRAMS. Let me introduce Ray Combs, who is the Special Assistant to the Secretary for Indian Affairs. He has also been meeting with various groups to get their input.

Mr. ALEXANDER. Thank you. Would you like to comment on the same question, Mr. Combs?

Mr. COMBS. With the many Indians and other people I have talked with, I would say that every one of them has suggested they would prefer to see a housing program in HUD. We have had problems with the particular program that we were talking about, but they would rather see HUD administer it than the Department of the Interior.

Mr. ALEXANDER. You are talking about the agency administering it specifically, as opposed to the substance of the administration bill versus the bill that is currently before this committee. Is that correct?

Mr. COMBS. What was the specific question?

Mr. ALEXANDER. There are two components. One is a housing program that is before this committee as opposed to the housing program that is proposed by the administration's bill. That is one question. The other question is, regardless of the nature of the program, should it be a HUD-administered program or should it be a Bureau of Indian Affairs program?

Mr. COMBS. My impression is they prefer a HUD-administered program. I would say it is a very mixed reaction in terms of our proposal. There were many who liked parts of it. To put it another way, there were problems with certain areas of it, but they liked other areas of it. I do not know of any who disliked it totally. They all found something in all of the bills. However, there was a significant number of people who thought there were many good points in it.

Mr. ALEXANDER. Thank you.

In your proposal, you state that you can build up to 4,000 units of housing for approximately $151 million. Could you indicate what the average per unit cost you are using in this estimate and whether or not that includes the water and sewer construction?

Mr. ABRAMS. I believe what we said is that our proposal from the administration had two different components. One was an expansion of community development block grants, including new construction. It is difficult to pinpoint the possible number of units to be built because it would depend completely on the tribal discretion as to whether they use the money for new housing or whether they use it for remodeling or whether they use it for nonhousing programs. The intent was to give complete flexibility to the tribe.

For the model that was an Indian housing grant program, which was half the budget authority that was requested for $38 million, we estimated there would be 1,500 houses built. We were calculating that

at an average cost on a nationwide basis of $35,000 per house plus $7,500 for infrastructure.

Mr. ALEXANDER. Thank you.

In S. 856 we propose a revolving housing fund in title II. It is our view that this would reduce Federal appropriations from Indian housing. In the administration's comments you state that you believe this will not in fact reduce the Federal role. Could you explain the basis for your viewpoint?

Mr. ABRAMS. You are establishing a revolving fund which would require administration by the Department of Interior and which would have a continuing Federal role in disbursing funds and establishing a bureaucracy to administer it.

The community development block grant program, which is one of the models we are proposing, has a network in place that works through the tribal government and allows discretion over the use of funds without excessive overlay of Federal regulation in the administration of the program.

Mr. ALEXANDER. If S. 856 were, in fact, passed and became an operative program, would you favor a provision in it that would mandate a transfer of staff from HUD to the Bureau of Indian Affairs?

Mr. ABRAMS. If the S. 856 bill becomes the law of the land and the means of delivering housing to the Indian tribes, I would think it would be appropriate to take the people with expertise within HUD as a nucleus for staffing a new bureaucracy at Interior.

Mr. ALEXANDER. Thank you.

Senator Murkowski was not in attendance at today's hearing because he was tied up with Majority Leader Baker in an important meeting.

We are adjourned.

[Whereupon, at 5:10 p.m., the hearing was adjourned.]

23-603 O - 83 - 8

APPENDIX

Additional Material Received for the Record

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April 29, 1983

RECEIVED MAY 0 3 1983

Chairman Udall
Committee on Interior & Insular Affairs
United States House of Representatives
1324 Longsworth
Washington, D.C. 20515

Chairman Andrews
Select Committee on Indian Affairs
United States Senate
Dirksen Building
Washington, D. C. 20510

Re: Testimony (S. 856,
H.R. 1928)

Dear Gentlemen:

Enclosed is written testimony from nine Dakota and Northern Plains Indian housing authorities on the "Indian Housing Act of 1983" for inclusion in the record of your April 19, 1983 hearings. We hope that our testimony and recommendations will be carefully considered by your Committees.

Sincerely,

James F. Wagenlander

Enclosure

JFW:pt

JOINT TESTIMONY OF
SELECTED DAKOTA AND NORTHERN PLAINS INDIAN HOUSING AUTHORITIES
BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

April 19, 1983

The nine Indian housing authorities identified below submit the following written testimony on the "Indian Housing Act of 1983" (S.856 and H.R.1928): Ute Indian Housing Authority, Ft. Duchesne, Utah; Salish and Kootenai Housing Authority, Pablo, Montana; Blackfeet Indian Housing Authority, Browning, Montana; Chippewa Cree Housing Authority, Rocky Boy, Montana; Trenton Indian Housing Authority, Trenton, North Dakota; Ft. Berthold Housing Authority, New Town, North Dakota; Ft. Totten Housing Authority, Ft. Totten, North Dakota; Cheyenne River Housing Authority, Eagle Butte, South Dakota and Lower Brule Housing Authority, Lower Brule, South Dakota.

We, hereinafter referred to as "The Housing Authorities", endorse and support the "Indian Housing Act of 1983." The Indian Housing Authorities make this decision after considerable review of current Indian housing programs and other Indian housing proposals. It is our firm belief that unless the existing U.S. Department of Housing and Urban Development's public housing/Indian housing program is reauthorized and funded at a minimum of 4,000 new units a year the only currently viable alternative is for the enactment of the Bureau of Indian Affairs administered "Indian Housing Act of 1983."

Our extensive experience with the U.S. Department of Housing and Urban Development and its current Indian housing program has shown us that the U.S. Department of Housing and Urban Development, and in particular its Central Office, is incapable and unwilling to effectively develop and administer a new Indian housing program. We believe that Department's structure, interests, and goals preclude it from being able to properly address Indian needs. In short, we have lost faith in the Department's ability to ever become understanding of and sensitive to Indian housing issues. As an example, it is our opinion that Indian housing proposals contained in the Housing and Community Development Act of 1983 are unworkable and unacceptable. As Indian housing authorities we feel that (1) a block grant approach is not advisable, (2) restricting development to federally recognized tribes and restricted lands is inhibiting, (3) a tribal co-mortgaging requirement is unprecedented and discrimintory, and (4) the Federal Housing Administration component is unclear and questionable. These proposals are merely additional evidence of a misguided and misinformed agency.

Current Indian housing conditions on our reservations and around the country remain deplorable. The existence of overcrowded, inadequate and substandard housing is a continuing national disgrace. We will be the first to admit that the problem is a complex one and that there are no easy solutions. Yet tribes and Indian housing authorities in recent years have substantially improved their development and management abilities and we will need to continue this progress. However, there should be no doubt that federal assistance is required and we believe that at this time the only workable and acceptable program is that contained in the "Indian Housing Act of 1983."

The Housing Authorities support the proposed Indian Housing Act with the following conditions:

1. Section 205(b) and (c) involving attachment of tribal trust funds should be struck. This provision is totally unacceptable. The precedent set by this attachment provision, its reference to "trust funds", and the specifying of sanctions is not only unnecessary but also an attack upon fundamental tribal rights.

2. Should passage of this Bill require a tribal guarantee of participant payments, we suggest the following provision:

> 205(b) The tribe shall guarantee, in writing, Indian family payments at the time a project application is submitted. Said guarantee shall be an ongoing contractual obligation of the tribe insuring prompt and proper payments by Indian families participating under this title. In cases of delinquency the Secretary may demand tribal payment with a ninety-day notice.

3. Section 203(b) involving review criteria for project funding should be modified by striking subsection (1). It is our opinion that selection of projects by the Bureau of Indian Affairs should be based only upon need, capability, and past performance.

Subsection (1) as currently drafted provides an additional priority for those tribes who have not received prior funding. We believe that this could result in penalizing successful tribal housing programs. If local accountability is to be supported then achievement cannot be discouraged but rather rewarded.

4. We believe that the "Indian Housing Act of 1983" should not require compliance with the Davis-Bacon Act (40 U.S.C. 276a-5). It is our belief that since the Davis-Bacon Act makes no expressed reference to Indian application that the "Indian Housing Act of 1983" should recognize tribal self-determination. Congress should yield to tribes to determine if prevailing wages are to be mandated on these projects and in what manner. A procedure specifically requiring such a tribal determination could be placed in the Bill in lieu of any specific references to Davis-Bacon.

With the incorporation of the four modifications described above the Indian Housing Authorities strongly recommend passage of the Indian Housing Act of 1983 and commend this Committee's effort to address Indian housing problems.

PREPARED TESTIMONY OF PETERSON ZAH, CHAIRMAN, NAVAJO TRIBAL COUNCIL, WINDOW ROCK, NAVAJO NATION (ARIZONA)

Mr. Chairman and Honorable Members of this Committee, on behalf of the Navajo Tribal Council and the Navajo Tribe, I would like to submit for the record my statement, and a detailed analysis of S. 856 compiled by our Division of Community Development and Housing Services Department. I wish to personally thank and commend the Committee and sponsors of S. 856 for their efforts and concerns in continuing an Indian housing program.

I was appalled at HUD's attempt to eliminate the Indian Public Housing Program as we have come to know it over the past twenty years. I understand that HUD proposals to fill the void created by the lack of funding in the Fiscal Year 1984 budget are unrealistic, non-workable, and serve to undermine past efforts of providing adequate housing for Indian people. The HUD proposals seem to be an attempt to extend urban housing programs to Indian Tribes in rural areas.

Co-mortgaging is certainly not advocated by Indian Tribes. FHA mortgage insurance, housing certificates or vouchers, and inclusion of new housing construction in the Community Development Block Grant program cannot significantly address or meet our housing needs. For your information, the Navajo Tribe currently receives only a small portion of the Secretary's discretionary funds. To further maximize the internal competition for Tribal CDBG funds with other economic and community development projects can only result in a minimal housing program effort.

The proposed legislation (S. 856) provides funds to address the enormous housing needs of Indian people across the nation. Tribal input into formulation of the proposed legislation, program design, and regulations is crucial to ensure the success of the Act. Indian housing programs designed with urban requirements and standards in mind is totally inappropriate to rural reservation settings. The housing needs of the Navajo Nation alone call for a multi-year commitment from the federal government to make significant strides in providing standard housing for approximately 160,000 Navajo residents. The Navajo Nation Division of Community Development estimates that 11,200 existing housing units on the Navajo Reservation require renovation, rehabilitation, or enlargement to accommodate the ever-increasing population, as well as a requirement for 12,300 new housing units.

In evaluating the proposed legislation, an apparent "battle for turf" is clearly evident. I am hopeful the Indian housing issue does not become victim in this battle between federal agencies. A viable program is certainly needed. In this regard, I wish to address several items of paramount concern to the Navajo Nation.

1. Obligated units presently in the HUD pipeline must be honored and realized as well as corresponding commitments for construction of sanitation facilities to serve these homes. Failure to do so or deobligation of funds will surely put the federal government in an embarrassing situation. Similarly, the responsibility for Indian housing must continue.

2. The multi-year funding commitment proposed by the legislation must be adequate to reasonably address our housing needs. In the past, the Navajo Tribe has been victim of unfair and inequitable allocations of housing funds.

3. The attitude of federal housing programs has encouraged a shotgun approach to our housing needs. A more concerted and coordinated effort with the Navajo Tribe is recommended. Numerous jurisdictional problems associated with regional, state, county, and district boundaries have adversely affected services to the Navajo people. Concepts of direct funding and innovative intergovernmental and cooperative agreements should be encouraged, to eliminate bureaucratic waste and duplication of efforts and services.

4. In delivering an effective housing program as outlined in the Act, we are prepared to assume more responsibilities in the decision-making process. The methods of production, construction, and delivery system should be left to the Tribe. Tribal planning can produce low cost housing alternatives and promote efficient utilization of federal funds. In short, the "government to government" relationship between the federal government and Indian tribes announced by President Reagan on January 24, 1983 must be fully implemented.

5. Maximum flexibility for the tribes is needed to tailor the different titles of the Act to tribal needs, such as acceptance of the force account construction methods, tribal manufactured housing operations, self-help type programs, and maximum use of local labor resources. We view the legislation as

a test of the tribes' capability to mobilize its own resources as a means of producing low cost housing for our people. The availability of tract type housing development and scattered site development must be incorporated in the legislation to conform with the traditional lifestyle of our Navajo people.

6. The proposed legislation must avoid waivers of tribal sovereignty. Unilateral attachment of tribal trust funds must not be allowed.

7. The provisions of the Indian Self-Determination and Education Assistance Act (P.L. 93-638) should be utilized in the implementation of the Act. The Navajo Tribe administers a P.L. 93-638 contract for the BIA Housing Development Program, thereby allowing direct tribal input into the program. A comprehensive review of exisitng regulations, laws, and executive orders affecting Indian housing can simplify procedures and streamline service delivery to our reservation residents.

8. The specific needs of various segments of our Indian population, in particular, Indian veterans should be addressed through the legislation. In addition, more significant efforts must be made by the federal agencies such as the Veterans Administration, the Farmers Home Administration, and the Department of Energy, to assist our large Navajo veteran population.

I wish to thank the Committee for allowing me the opportunity of presenting these concerns to you. We look forward to working with the Committee in the successful implementation of this Act.

"Attachment"

THE NAVAJO TRIBE

DIVISION OF COMMUNITY DEVELOPMENT

NAVAJO HOUSING SERVICES DEPARTMENT

General Statements on S.856

1. We support the legislation provided certain considerations are included with legislation, such as careful review of the attachment of Tribal trust funds as a mechanism to secure any defaults of individuals.
2. The concept of concentrating housing programs within the BIA is supported. At present, the Navajo Tribe is contracting the BIA Housing Development Program entirely, and the legislation will provide direct benefits to the Navajo Tribe. The BIA, in administering the Act overall, should not build their administrative staff beyond reason. Applicability of P.L. 93-638 regulations to the Act should be encouraged to allow Tribes direct responsibility for the various titles of the Act.
3. The responsibility of the Indian Health Service for sanitation facilities construction should remain in tact. Transferring this responsibility to HUD (as proposed in H.R. 1901) will only create problems, with added regulations, minimum property standards, Davis-Bacon requirements etc. HUD's requirements for urban amenities and burdensome redtape are time-consuming and costly.

4. Through the P.L. 93-638 process, the Tribes can design programs to meet their needs and the Act should recognize that maximum flexibility is required for the Tribes. In the same respect, direct funding from federal agencies can address the need for increased levels of direct services. Under present mechanisms, much is taken from direct services for administrative and overhead costs at all tiers within the delivery systems.
5. During the presentation of testimony, mention of the special needs of Former Joint Use Area residents and Navajo veterans can be addressed. The federal agencies must realize that the special need areas are enormous.
6. Low cost housing methods utilized by the Tribe can greatly offset rising housing costs. Barriers or problem areas that contribute to high costs are Davis-Bacon wage rates, HUD minimum Property Standards, total development costs and requirements, etc. Tribal housing operations such as modular-prefabricated operations, force account construction, use of local Navajo labor resources, and Tribal lumber enterprises can significantly reduce costs and assist in maximizing efficient utilization of Federal dollars. The Act should also allow for portions of the funding appropriated by the Act for use in such operations.
7. In comparison to the HUD proposal (H.R. 1901), this legislation will be more workable to the Navajo housing needs. The HUD legislation proposes FHA mortgage insurance which is fine for subdivisions or tract development but

simply not applicable to scattered site development. Co-mortgaging (where the Tribe and family both sign the loan obligations) is inadvisable. HUD proposes that the responsibility for sanitation facilities construction be transferred from the IHS, which we disagree with. Funding an Indian Housing Program through the Community Development Block Grant Program is not recommended due to the redtape and administrative costs involved. Besides; internal competition for funds within the Tribal structure will result in a minimal housing effort, especially if the CDBG programs emphasis is on economic and community development projects. In another respect, individual housing will be deprioritized in favor of larger development projects.

Sec. 3, (2) definition of "amortization payment" should be modified to reflect a thirty (30) or thirty three (33) year amortization period, consistent with other Federal housing programs and lending institutions.

Sec. 3, (6) definition of "mortgage" should include the common method of establishing a lien on a leasehold interest rather than real property in the case of Tribal trust lands.

Sec. 3, (9) definition of "standard housing" should include dwellings supplied with standard plumbing, sanitation facilities, standard electrical and heating system, but lack necessary utility services for proper operation of the system. This provision will allow assistance to

project sites in rural isolated locations inaccessible to electrical and waterline services. In such cases, the construction would be identical to homes having access to standard utilities. Requiring electrical, plumbing, and heating systems for isolated locations would be economically unfeasible and impractical on many portions of the Navajo Reservation. Strict adherance to the definition will eliminate much needed housing assistance to many Navajo families.

The acceptance of local building codes or standards adopted by the Tribes, including provisions for native building materials and appropriate technologies, should be mentioned in the Act. The approval of alternative low-cost construction methods should be vested with the Tribes and time-consuming approval by Federal agencies/officials should be eliminated.

Title I, Sec. 102 (b) makes references to insurance requirements. Where feasible, minimum of fire and extended coverage should be required. However, in localities where coverage would be economically or practically unfeasible, waivers by the tribal housing agencies, Tribal Council or Area Director is sufficient rather than Secretarial approval.

Title I, Sec. 103 (b) can be modified to include lien recording with the Bureau of Indian Affairs title plants.

Title II, Sec. 201 fails to mention financing to individual Indians from the fund. This title can be more

effective if individual families can borrow from the fund to finance. The present language infers the turnkey methods will be used entirely in all situations.

Title II, Sec. 202 requires a tribal housing plan. A tribal housing plan, with an accurate inventory of existing units and housing needs, requires intensive research by Tribes (in particular the larger Tribes). Time and costs will become limiting factors. An interim housing plan for the Navajo Tribe will allow needed time to prepare such a comprehensive document. Presently, the most commonly used and reliable statistical information are BIA housing reports, submitted for the Housing Improvement Program.

Title II, Sec. 203 (a) will increase the amount of paperwork submitted to the Secretary. Considering the fact that repair/renovation projects require exclusive sets of plans and specifications. Tribes can be held responsible for providing adequate documentation and justification for expenditures. The Navajo Tribe is concerned that approval of plans and specifications by the secretary's office will result in timely delays in project implementation. Additionally, the Navajo Tribe possesses the capability to review all plans and specifications locally for compliance with applicable building codes and standards. Local decision-making input should be encouraged rather than burdensome

procedures or Secretarial approval.

Title II, Sec. 203 (b) lists criteria for evaluation and approval of applications. Priority consideration to Tribes who have not received financing from the fund in prior fiscal years is not recommended. Priorities should be based on a more equitable distributions to the Tribes determined by weighted factors such as housing needs, population, and per capita income.

Title II, Sec. 203 (d) mentions multitribal applications. Multitribal applications can be considered on an equal basis with individual Tribal applications with no special prioritization consideration.

Title II, Sec. 204 specifies a project agreement specifying funding levels, estimated number of units to be developed, production methods to be utilized by the Tribe, and other terms and conditions. Greater flexibility is needed for the Navajo Tribe to determine its own labor and production methods by mobilizing its own Tribal members and contributing to the Navajo economy. Therefore, funds under the Act should allow for low cost alternative construction including force account construction.

Title II, Sec. 205 mentions attachment of Tribal trust funds. The Secretary of the Interior should not attach any obligated or unobligated trust funds without prior approval and consent of the Tribes involved. Tribal trust funds should not be used to secure individual

23-603 O - 83 - 9

Indian obligations. In the case of individuals, assignments from individual Indian monies can supplant actual attachment. Ninety (90) days written notice prior to attachment is more reasonable than sixty (60) days notice. Opportunities to pay the default, negotiate satisfactory obligations to other families or relatives are needed for acceptance by local people.

Title II, Sec. 206 (a) mentions disbursement methods. Phased disbursements based on percentage completion, including initial disbursements, may become limiting factors in timely completion of projects. Disbursements should be made to the Tribes rather than contractors or developers. No provisions for interim financing are provided and timely delays will result. Drawdowns on Letter of Credit authorizations by the Tribes as currently utilized will alleviate the inspection-payment time factors and interim financing problems certainly to be encountered by the Tribes.

Title II, Sec. 206 (c) should mention return of unobligated funds as additional housing funds and should not be deducted from subsequent year allocations.

Title II, Sec. 207 gives a 120-day requirement for submission of final plans and specifications. Reference is made to the comments provided in Title II, Sec. 203 (a) where approval of plans and specifications by the Secretary's office will result in timely delays on project completion. Additionally, many Tribes possess local

capabilities to review plans and specifications to review plans and specifications for compliance with applicable building codes and standards, as well as construction inspection capabilities.

Title II, Sec. 208 (b) can be modified to include lease agreements presently utilized by Tribes where terms are greater than 25 years, thus eliminating modifications of present leasing procedures. In lieu of the turnkey approach in multi-unit sites, liens on leaseholds should be allowed for scattered sites.

Title II, Sec. 209 (c) mentions the reversions of land to its former status after the loan obligations are satisfied. The agency or Tribe should be allowed to renew the lease in accordance with Tribal leasing procedures. Lien on leasehold can be released upon fulfillment of loan obligations.

Title II, Sec. 211 (c) states the residual receipts due annually shall not fall below 90 per centum of the amount due, which is too high considering the need for servicing actions of delinquent accounts and satisfactory repayment schedules utilized by the Tribes. The 10-day determination of default is too restrictive, whereas a 30-day default determination is more practical. The time to clear defaults should be extended to 90 days rather than the 30-day allowance. Declaring Tribes ineligible for further funding due to default is not recommended. In comparison, Federal lending

institutions are allowed greater flexibility in administering similar loan programs. Adequate time allowances are crucial for success and acceptance of the program, rather than idealistic or impractical restrictions imposed on Tribes.

Title II, Sec. 212 (b) can be modified to require Indian Health Service technical staff to monitor and/or provide installation of plumbing facilities in accordance with appropriate plumbing codes and health/safety standards. The IHS responsiblity for sanitation facilities can be utilized in conjunction with implementation of the Act. The adequacy of the monitoring and construction inspection procedures should be the responsibility of the Tribes if local capabilities are evident.

Title II, Sec. 213 (a) is too restrictive. Federal lending institutions do not require bonding of their employees. Requiring Tribal and agency officials to be bonded, whereby Federal officials and employees are not, will be a grave injustice.

Title II, Sec. 213 (b) requires performance bonds. Performance bonds where up to 90% of the contract amount is paid on a percentage completion basis, while 10% is retained and payable upon final completion and inspection is recommended, or 60% is paid (with 40% retainage) or in lump sum contract agreements payable upon final completion, Tribes need more flexibility to contract with skilled Tribal members to assist in private sector

development on Indian Reservations. The Navajo Tribe's success in contracting with Tribal members has demonstrated the joint commitment by Navajo contractors and the Tribe to develop the Navajo housing industry, community infrastucture, and Navajo economy. For those projects considered turnkey construction, the interim financing issue should be addressed. Force account methods should be allowed to reduce overall housing costs.

Title II, Sec. 213 (c) requires letters of credit, lien bonds, or cash equivalents from contractors. The amounts can be determined by methods mentioned in (b) above.

Title II, Sec. 215 should be modified to reflect Tribal bidding and purchasing procedures including Tribal preference laws and accountability systems approved by OMB.

Title II, Sec. 220 allows for rental housing. Responsibility for utility payments should remain with tenants rather than Tribes.

Title III, Sec. 305 should state the application of loan guarantee should be submitted to the Secretary by the lender, after the repayment ability has been resolved and the lender is willing to extend the loan.

In general, the acceptance of a loan guaranty fund nationwide will depend on the readiness and willingness of private lenders to participate in the program. The reasons for past failures of Federal loan guarantee programs in general should be examined and reviewed carefully before implementing the Indian housing guaranty fund.

Title III, Sec. 309 mentions courts of competent jurisdiction. Tribal courts should be recognized as courts of competent jurisdiction.

Title IV, Sec. 401 (b) states the authorities of the office of the Director of Indian Housing Programs. Consideration of delegated authorities to the Tribes or agencies should be included, such as authority to approve applications as provided in Sections 203 or 204, including the allocation and assignment of personnel to the agencies. Bureau of Indian Affairs Housing programs contracted under P.L. 93-638 by the Tribe should be allowed to assume greater responsibility and authorities under the Act.

Title IV, Sec. 401 (c) should include a statement that the provision of the Act shall not inhibit or discourage Tribes from participation through P.L. 93-638, The Indian Self-Determination and Education Assistance Act. The Navajo Tribe administers the P.L. 93-638 contract in the BIA Development Program and the Act should not discourage continuation or disruption of the contract.

Title IV, Sec. 404 mentions all-weather access roads to multi-unit projects. Revision is recommended to consider the excessive costs for road development on large reservations. Multi-unit or subdivisions should not have to wait for development of the offsite items, but should proceed with housing construction. The definition of a standard home should be reexamined for applicability on large reservations and in isolated communities or locations.

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JOE AMERICAN HORSE

PREPARED TESTIMONY OF THE OGLALA SIOUX TRIBE, PRESENTED BY JOE AMERICAN HORSE, PRESIDENT, OGLALA SIOUX TRIBE

The Oglala Sioux Tribe appreciates this opportunity to give written testimony on S. 856 the "Indian Housing Act" to the Senate Select Committee on Indian Affairs. We are pleased that the United States Congress is aware of the tribal governments' philosophy of local control and self-determination in an Indian housing program with the introduction of S. 856.

The Pine Ridge Indian Reservation, home of the Oglala Sioux Tribe, is located in south western South Dakota, and has a population of approximately 17,500 and residents living on the two million (2,000,000) acre reservation.

A recent study compiled by the Bureau of Indian Affairs indicated that 66% of the population resided in substandard housing.

In addition, there is a present need of 2,500 housing units to adequately meet our housing needs as of 1983.

Of the many substandard housing units, many do not have indoor plumbing therefore most families must transport drinking water over long distances. Also many of the houses constructed by program funding from the Department of Housing and Urban Development are overcrowded by 200% average and are now in such a physical condition that would not meet any

city, county or state building codes in the nation. The condition of our existing units are in such bad shape that your committee members would not see fit to occupy.

The Oglala Sioux Tribe has had a inter-governmental agency relationship with the Department of Housing and Urban Development (DHUD) for twenty-two years and won the first tribal housing authority in the nation. While the federal housing program established under DHUD allowed the Tribe to build twelve hundred (1,200) housing units on our reservation, the delivery system for constructing these housing projects has been cumbersome, an enormous amount of needless paperwork and the use of bureaucratic manipulations to an extent that hinders the somewhat effectiveness of the program. Houses constructed, did meet DHUD minimum property standards but did not take into account the needs of the family or the local environment. In particular, the Housing Authority was allowed by DHUD concurrence to build one hundred (100) mutual help units with total electrical useage for heating and cooking. These units are now costing the families an average of $300 per month in utility costs. Thus, the families are concerned with prioritizing utility payments over necessary survival expenses such as food and clothing.

The Oglala Sioux Tribe supports the concept of the development, implementation and administration of a Indian Housing program by the Bureau of Indian Affairs. We feel because of the historical relationship as well as the Bureau of Indian Affairs ability to maintain dialog with tribes, our housing needs will be better served and administered by the Bureau of Indian Affairs.

Finally, we feel S. 856 as it is written would compliment the economic, social and philosophic development strategies and/or goals of the Oglala Sioux Tribe in its quest for self sufficiency and self-determination as a nation.

We have oganized the remainder of our written testimony to follow the format of the bill and hope it provides the committee with a clear understanding of our position.

TITLE I - Indian Housing Improvement Program

The authority provided in Title I will allow the Oglala Sioux Tribe to meet the housing needs of the truly needy of our tribe and not cause financial burdens upon them. Also, we feel that required insurance on these units is a very good aspect and will protect the federal dollar as well as represents good management.

TITLE II - Indian Housing Finance Fund

The authority provided in Title II will greatly assist Indian families who have experienced problems in securing housing loans through existing federal loan programs. These problems are caused by the trust status of Indian lands and the due process required to secure a default judgement to repossess a unit through tribal courts.

We feel the provisions in Sec. 202 which allows the affected tribe to design a local organizational and administrative structure and determine its own priorities are based on the principles of local control and

self-determination. We further support the policy of supporting long-term planning efforts within tribal governments and organizations, as required in this section.

The Oglala Sioux Tribe has been involved in financing arrangements over the past fifteen (15) years with the Farmer's Home Administration (FmHA) and as a result of this arrangement, has obligated the majority of its land lease income for many years to come to this debt. Unlike many resource rich tribes, our tribe has not exploited its natural resources other than grasses and farm lands, and does not have readily available income. We, therefore, hesitate to offer our full support to Sec. 205 because of the potential repercussions it may have throughout our government and economy.

Further, as the committee may be aware, our tribe was not a party to the Black Hills Claim Judgement and we are uncomfortable with allowing ourselves to be placed in a position where the Secretary may attempt to rule that the Oglala Sioux Tribe were party to a claim and attach monies based upon that understanding, with the possibility of seeking to quiet our title to treaty lands through a "back door approach". A possible avenue of resources, which we have available at the present time and are increasing, is the tribe's tax income and we would be more receptive to assigning this income than trust funds.

In Sec. 209, we question the need for the Indian family to transfer title of its trust lands, prior to the construction of a house, to a tribal housing agency at such agency's discretion. We think security can be established through the execution of a mortgage instrument of trust lands

to the Agency, but the transfer of title of trust lands would become effective only upon default. The principle to be preserved here is not to unduly alienate any individual owner's title to trust lands. Further, we feel this discretionary authority should either be removed for individual trust lands prior to finalization of the Bill; we strongly feel this should not be left to administrative rulings. Accordingly, we feel the authority to mortgage the specific lot, or perhaps a two acre tract to the Agency would meet the security requirements and not separate title of lands from individuals. The Constitution of the Oglala Sioux Tribe mandates that no tribal lands shall be sold or encumbered, because of the nature of undivided heirship interest the tribe owns some interest in the majority of lands on the reservation, there must be resources appropriated to the Realty Branch of the Bureau of Indian Affairs if any land transactions are to be timely processed.

Also in Sec. 209 (b)(2&3), we feel there should be an allowance in charges for energy and water costs associated with the house, which will be deducted from the amount of the required payment. Under Sec. 220(3) we object to the provision requiring tribal responsibility for utility costs in rental housing. Last year the DHUD low-rent projects were converted to tenant paid utilities with each tenant offered a utility allowance, based upon the size, age, and appliances (propane or electric) of the house, which is deducted from the rent and this mechanism has worked well on our reservation, and can be reproduced under another housing program. The sheer weight of utility costs for rental housing can severely strain most tribal governments budgets.

We feel there must be a provision developed under Sec. 220 to allow the construction of rental complex support services and facilities, such as: day care centers, elderly complexes with requisite dining and community rooms, and park or recreational/playground facilities, with a structure for paying for such items.

Other than the above noted objections, we feel Title II has considerable merit.

TITLE III - Indian Housing Loan Guarantee Fund

The Oglala Sioux Tribe feels the provisions and authorities set forth in Title III will assist these Indian families on our reservation who have the financial means for qualifying for conventional loans but who have not been able to secure such loans because their lands are held in trust. We feel when such houses, constructed and/or financed under this Title, are subject to default proceedings and they are within the territorial jurisdiction of a Tribal Government, such Tribal Government should be afforded the right of first refusal to refinance the house. Other than this reservation, we feel this Title has merit.

TITLE IV - Miscellaneous Provisions

The Oglala Sioux Tribe voiced its concerns, during hearings held for the companion bill in the House of Representatives, that the personnel complement authorized to administer this Act could become unweidling large and attach large portions of appropriations for its operations. We feel the reporting requirements specified in Sec. 401(c) will act to balance any unnecessary personnel costs.

The provision to establish a training program for participant families of Titles I and II is necessary if the program is to be successful and we support this section.

Under Sec. 403, we question the delegation of authority for the planning of roads to the Indian Health Service as this activity has traditionally been the responsibility of the Bureau of Indian Affairs, and the Bureau possesses the personnel as well as access to land information for such activity.

The requiring of the Bureau of Indian Affairs to maintain roads in multi-unit housing areas as a part of their on-going responsibility will provide such areas with necessary services. The BIA has presently taken the position that it is not responsible for roads built as part of the tri-agency cooperative project with the Department of Housing and Urban Development and Indian Health Service, resulting in such roads falling into disrepair, and being dangerous in many cases. Accordingly, the Oglala Sioux Tribe feels Sec. 404 is a necessary part of the Act and endorses it.

The Oglala Sioux Tribe recommends the inclusion of the words "with due consultation of tribes" between the words "The Secretary shall conduct" and "a biennial housing inventory....." in Sec, 405, Such an inclusion will insure that the tribes are in agreement with the findings of the Secretary's report. It has been our experience, in past reports regarding housing, that the Secretary has counted as standard housing, the units built and available only for employees of the Bureau of Indian Affairs and Indian Health Service as well as the private homes of non-

Indians residing on fee/deeded lands within our reservation, and our objections were without result.

The Oglala Sioux Tribe strongly opposes Sec. 406 and feels that the Secretary would be overstepping his authority to determine any uses of tribal and individual trust funds. First, the inference of this section smacks of the paternalistic attitudes of the Federal Government to which we have long objected; second, such authority infringes upon the perrogatives of tribal governments to determine their internal affairs; third, the special relationship which Indian and Indian Tribes have historically enjoyed with the Congress of the United States requires that full faith and credit is given to local control and self-determination initiatives. While we do not oppose a section requiring each tribe to develop and submit such a plan, we cannot support the section in its present wording.

We support the use of qualified Indians to assist in the development of rules and regulations, as set forth in Sec. 407.

Finally, the Oglala Sioux Tribe recommends the development of a section which allows the tribe to develop and implement through/by its labor board of TERO (Tribal Equal Rights Office) the establishment of local wage scales.

The Oglala Sioux Tribe wishes to express its appreciation to the Senate Select Committee on Indian Affairs for this opportunity to present testimony on S. 856 and thanks the Senate for taking this important step toward meeting the housing needs of Indian tribes.

UNITED SIOUX TRIBES
OF SOUTH DAKOTA
Development Corporation
P.O. Box 1193, Pierre, S.D. 57501

Executive Director	224-2294
Real Estate	224-8860
Employment Program	224-8862
Education Program	224-8863
Business Office	224-8864
CETA	224-8865
Health	224-8394
Parent Aide	224-8861

- Standing Rock
- Lower Brule
- Devils Lake
- Flandreau
- Rosebud
- Santee
- Crow Creek
- Pine Ridge
- Cheyenne
- Sisseton
- Yankton

Field Offices

Aberdeen	225-9513
Rapid City	343-1100
Sioux Falls	339-0248

April 22, 1983

Honorable Mark Andrews
Chairman, Select Committee
on Indian Affairs
Washington, D.C. 20510

Dear Senator Andrews,

My name is Clarence W. Skye, I am the Executive Director of the United Sioux Tribes Development Corporation with headquarters in Pierre, South Dakota. I want to thank you for allowing me, as Executive Director of the United Sioux Tribes to present testimony of H.R. 1928, the Indian Housing Act of 1983. The United Sioux Tribes is a confederation of the Tribal Chairmen of the eleven (11) Sioux Tribes in Nebraska, South Dakota and North Dakota representing more then 52,000 Tribal members living both on and off the reservation. We support legislation that would bring about a Housing Program to meet the critical needs of those people now living in unsanitary and substandard houses.

In our review of the subject bill, we believe that the Indian Housing Act of 1983, (H.R. 1928) is a positive step to meet the critical needs of substandard reservation housing. It would be our hope that the bill could be amended from the standpoint that Section 205 is rewritten in the context of giving the Tribe more recognition for Tribal self-government and the matter of Tribal sovereignty and self-government be given due emphasis throughout the redrafting or amending of H.R. 1928.

Propositions to encumber Trust Land by the use of private financing is undesirable and unrealistic since the provisions of recourse through Tribal Courts are unacceptable to lending institutions. Further, any plan to make Tribes totally liable for the investment in housing is an unfair burden on Tribal Government and their existence. Wording has already been provided the committee the previous testimony by members of our Tribes and others that would make the legislation more compatible and more effective in meeting the need for providing safe, decent and sanitary housing for all our people. I do not know to what extent Indian people assisting in drafting of this legislation but I do know that we were directly involved in the drafting of S-2847 last year and not involved in S-644 this year.

In summary I would say that H.R. 1928 and its companion S-855 represent a better approach to meeting the desperate housing needs of Indian people. I think by comparison, S-644, is totally lacking in the realism of what it will take to get housing for Indian people in Indian Country. I wish to thank this committee for giving me the opportunity to speak on behalf of the Sioux Tribes. I would be happy to answer any questions that anyone may care to ask regarding the housing situations on our reservations.

Sincerely,

Clarence W. Skye
Executive Director